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# Transcript of Jeffrey Wendel

**Date:** September 30, 2021

**Case:** Donnelly -v- Linden Capital Partners III, L.P., et al.

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF SOUTH CAROLINA  
3                   Charleston Division

4  
5                   - - - - - x  
6   PATRICK K. DONNELLY,                   :  
7                   Plaintiff,               :  
8                   v.                       : Case No.  
9   LINDEN CAPITAL PARTNERS III,        : 2:20-cv-3719-RMG  
10   L.P., et al.,                       :  
11                   Defendants.           :  
12                   - - - - - x

13                   Videotaped Deposition of JEFFREY WENDEL  
14                   Washington, D.C.

15                   Thursday, September 30, 2021

16                   9:04 a.m.

17  
18  
19  
20  
21  
22  
23   Job No. 398679

24   Pages 1 - 110

25   Reported by: Karen Young

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1                   Videotaped Deposition of JEFFREY WENDEL, held  
2                   at the offices of:  
3                   STEIN MITCHELL BEATO & MISSNER LLP  
4                   901 15th Street, Northwest  
5                   Suite 700  
6                   Washington, D.C. 20005  
7                   (202) 737-7777

8  
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11  
12                   Pursuant to notice, before Karen Young,  
13                   Notary Public of the District of Columbia.  
14  
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1 A P P E A R A N C E S

2 ON BEHALF OF PATRICK K. DONNELLY:

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23 (617) 951-7000

24

25

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1 ALSO PRESENT:

2 Miles Tag, Videographer

3 Leah Shenfeld, Videographer Trainee

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1	C	O	N	T	E	N	T	S	
2	EXAMINATION OF JEFFREY WENDEL								PAGE
3	By Mr. SanFilippo.....								7
4	By Mr. O'Bierne.....								89

13 E X H I B I T S  
14 (Attached to Transcript)  
15 Exhibit 1 Employment Agreement Between  
16 Patrick K. Donnelly and Advarra, Inc..... 100

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1	P R O C E E D I N G S	09:04:30
2	THE VIDEOGRAPHER: Here begins Disk	09:04:30
3	Number 1 in the videotaped deposition of Jeff	09:06:02
4	Wendel in the matter of Donnelly V Linden Capital	09:06:04
5	Partners III, L.P. et al. in the United States	09:06:09
6	District Court for the District of South Carolina,	09:06:14
7	Charleston Division, Case Number 2:20-cv-3719-RMG.	09:06:18
8	Today's date is September 30th, 2021.	09:06:30
9	The time on the video monitor is 9:04 a.m. The	09:06:34
10	videographer today is Miles Tag, representing	09:06:39
11	Planet Depos. This video deposition is taking	09:06:42
12	place at 901 15th Street, Northwest, Suite 700,	09:06:45
13	Washington, D.C. 20005. Would counsel please	09:06:52
14	voice-identify themselves and state whom they	09:06:57
15	represent.	09:06:59
16	MR. SANFILIPPO: Nick SanFilippo from	09:06:59
17	McGuireWoods for Patrick Donnelly.	09:07:00
18	MR. DEMERS: Greg Demers from Ropes &	09:07:03
19	Gray on behalf of the deponent.	09:07:04
20	MR. O'BEIRNE: Phillip O'Beirne from	09:07:06
21	Stein Mitchell, representing defendants.	09:07:07
22	THE VIDEOGRAPHER: The court reporter	09:07:09
23	today is Karen Young, also representing Planet	09:07:10
24	Depos. Will the reporter please swear in the	09:07:13
25	witness and then we may proceed?	09:07:15

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1	JEFFREY WENDEL,	09:07:25
2	having been duly sworn, testified as follows:	09:07:25
3	EXAMINATION BY COUNSEL FOR PATRICK K. DONNELLY	09:07:25
4	- - -	09:07:25
5	BY MR. SANFILIPPO:	09:07:26
6	Q Good morning, Mr. Wendel.	09:07:26
7	A Hi. How you doing?	09:07:28
8	Q Good, thank you. I want to thank you for	09:07:30
9	taking time out of your busy day to come here and	09:07:32
10	talk to me. I know you've --	09:07:35
11	A Sure.	09:07:35
12	Q -- got things you'd rather be doing.	09:07:37
13	Have you ever been deposed before?	09:07:39
14	A Not personally. I've been -- I've been	09:07:40
15	deposed I guess in a UCMJ type proceeding, but not,	09:07:42
16	you know, commercial.	09:07:48
17	Q Universal Court of Military Justice?	09:07:49
18	A Right.	09:07:51
19	Q So you were in the -- you were in the	09:07:52
20	military?	09:07:53
21	A Yeah, I was. I was a submarine officer.	09:07:53
22	Q Thank you for your service.	09:07:56
23	A Thanks.	09:07:58
24	Q So you know, I take it that because	09:07:59
25	you've been deposed before, that you're somewhat	09:08:02

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1 familiar with the process. You know, I'm asking 09:08:05  
2 you questions under oath. You know, if you -- if 09:08:06  
3 you have any -- if you're not able to understand 09:08:09  
4 the questions that I'm asking you, if I ask you a 09:08:12  
5 question that's just a bad question or it's a 09:08:15  
6 confusing question or you're not sure what I mean, 09:08:17  
7 feel free to ask me for clarification. Is that 09:08:19  
8 fair? 09:08:21  
9 A Yeah, fair. 09:08:21  
10 Q If -- if you want to take a break at any 09:08:23  
11 time, just let me know. The only thing that I ask 09:08:27  
12 is that you not do so while a question is pending. 09:08:29  
13 Is that fair? 09:08:32  
14 A Fair enough. 09:08:32  
15 Q So if I ask a question -- 09:08:33  
16 A Right. 09:08:34  
17 Q -- you answer it, and then we -- 09:08:35  
18 A Right. 09:08:35  
19 Q -- can take a break. 09:08:35  
20 A Take a break, right. 09:08:36  
21 Q Have -- you know, is there -- is there 09:08:38  
22 anything that would prevent you from testifying 09:08:41  
23 truthfully today, any medication, any illness, any 09:08:43  
24 memory loss? 09:08:46  
25 A No. 09:08:47

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1 Q Okay. 09:08:47  
2 A No. 09:08:48  
3 Q So Mr. Wendel, what -- what is your 09:08:48  
4 current title? 09:08:51  
5 A I would guess it's essentially either 09:08:52  
6 retired or perhaps a flaneur, but no, so I'm -- I 09:08:55  
7 retired from Advarra last year. 09:09:03  
8 Q Okay, okay, and then prior to that, what 09:09:07  
9 was your title? 09:09:09  
10 A I was president of Advarra. 09:09:10  
11 Q And how long were you with Advarra 09:09:13  
12 overall? 09:09:16  
13 A Well, it started out as Chesapeake IRB. 09:09:16  
14 Q Right. 09:09:19  
15 A So I started there in 2006, so roughly 14 09:09:19  
16 years. 09:09:22  
17 Q Okay. And what was your title in 2006 09:09:23  
18 when you joined Advarra? 09:09:28  
19 A 2006 for -- Advarra was like -- 09:09:30  
20 Q I'm sorry. 09:09:36  
21 A Sorry. 09:09:36  
22 Q Chesapeake IRB. When you joined 09:09:36  
23 Chesapeake IRB in 2006 -- 09:09:40  
24 A I was -- I think I was the vice president 09:09:40  
25 in operations. I eventually became the CEO. 09:09:41

Transcript of Jeffrey Wendel  
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1           Q     Okay. Do you recall what year you became     09:09:44  
2     the CEO?    09:09:46

3           A     I'm going to say 2013ish, 2013 probably.     09:09:47

4           Q     And prior to joining Chesapeake IRB, what     09:09:51  
5     did you do?    09:09:55

6           A     I was a president of a systems     09:09:55  
7     integration company.    09:09:59

8           Q     And which one was that?                        09:10:00

9           A     It was called RWD Technologies.               09:10:01

10          Q     Okay, and how long were you there?        09:10:05

11          A     About nine years.                               09:10:06

12          Q     Okay. Were you the president the whole     09:10:07  
13     time?    09:10:09

14          A     No. Probably five, six years.               09:10:09

15          Q     Okay. And then -- so that takes us back     09:10:15  
16     to roughly 2000 when you started there; is that       09:10:22  
17     right?   09:10:24

18          A     I started there in like '94.                09:10:24

19          Q     Oh, sorry.                                       09:10:26

20          A     Yeah.   09:10:27

21          Q     '94. And then what did you do prior to     09:10:27  
22     1994?   09:10:31

23          A     I was a director at a division of Singer,     09:10:31  
24     did realtime simulators, things like aircraft,       09:10:36  
25     submarines, offshore oil platforms.                       09:10:41

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1	Q	Sure. If I ask you about anything that's	09:10:42
2		classified, I have no intention --	09:10:43
3	A	Don't worry.	09:10:43
4	Q	-- to do that. If I start to go down	09:10:45
5		that road, just --	09:10:46
6	A	Yeah.	09:10:47
7	Q	-- tell me that you can't talk about it	09:10:47
8		and I'll understand.	09:10:49
9	A	No.	09:10:50
10	Q	So -- and then -- when did you join	09:10:52
11		Singer?	09:10:54
12	A	In '82 when I got out of the Navy.	09:10:54
13	Q	Okay, and how long were you in the Navy?	09:10:56
14	A	Five years.	09:10:58
15	Q	And where did you go to school?	09:10:59
16	A	I went to the Naval Academy.	09:11:02
17	Q	Naval Academy?	09:11:04
18	A	Yeah.	09:11:06
19	Q	Great. It's a great institution. And I	09:11:07
20		assume you just -- it was just a -- the four-year	09:11:09
21		Naval Academy track, right?	09:11:12
22	A	Yeah, I had a five-year commitment.	09:11:14
23	Q	Five-year, and then --	
24	A	So I graduated '77, got out in '82. Then	09:11:16
25		I stayed on as a reserve officer until I retired.	09:11:18

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1	Q	Okay.	09:11:21
2	A	Eventually was the -- a senior officer	09:11:22
3		assigned to the deputy chief of Naval operations	09:11:24
4		for submarine warfare.	09:11:27
5	Q	Well, I know I already said this, but I	09:11:28
6		want to say it on the record. Thank you for your	09:11:30
7		service.	09:11:31
8	A	Sure.	09:11:31
9	Q	I really do appreciate it. Have you ever	09:11:32
10		worked for a private equity firm directly?	09:11:38
11		MR. O'BEIRNE: Objection, form.	09:11:44
12		MR. DEMERS: You can answer.	09:11:46
13		THE WITNESS: Sorry.	
14		MR. DEMERS: You can answer.	09:11:46
15		THE WITNESS: Not as a member of the	09:11:47
16		private equity organization. Obviously as a	09:11:48
17		portfolio company CEO.	09:11:50
18		BY MR. SANFILIPPO:	09:11:52
19	Q	Right, but no direct employment with --	09:11:52
20	A	No, no.	09:11:54
21	Q	Okay, so you -- have you ever been --	09:11:55
22		you've never been directly employed by Linden?	09:11:56
23	A	No.	09:11:59
24	Q	Okay. Was Chesapeake IRB the first	09:12:00
25		company you worked for in the health care space?	09:12:07

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1       A     Yes, although the systems integration           09:12:10  
2        company that I worked for, one of our main           09:12:15  
3        verticals was health care, so probably 50 percent           09:12:17  
4        of our systems deployments were in the health care           09:12:21  
5        space.   09:12:24

6       Q     Okay, okay. How did you end up           09:12:24  
7        transitioning -- what made you transition from           09:12:27  
8        systems integration to the IRB space in particular?    09:12:31

9       A     Well, we -- we had initially taken the           09:12:35  
10       organization -- the RWD company public. The owner,           09:12:38  
11       or the primary shareholder didn't -- when we did           09:12:44  
12       the initial offering, wanted to retain like 55           09:12:48  
13       percent ownership so he still had control. Much to           09:12:51  
14       many of our chagrin, that had a detrimental impact           09:12:55  
15       on its valuation. It's basically still a private           09:13:00  
16       company for all practical purposes. We couldn't           09:13:02  
17       convince him to do a secondary offering, and           09:13:05  
18       subsequently, we came to, you know, just a -- or at           09:13:08  
19       least I came to a fork in the road and just said           09:13:12  
20       hey, I think I need to do something else.           09:13:14

21       Q     Okay, okay, that makes sense, but why did           09:13:15  
22       you choose the IRB space?                           09:13:19

23       A     Well, because the -- the opportunity that           09:13:21  
24       was presented to me through a -- an accounting           09:13:22  
25       friend was working with Chesapeake, and they were           09:13:26

1 on the verge of doing what I had done all that 09:13:28  
2 time, which is basically take -- install 09:13:31  
3 enterprise-wide systems that sort of transform the 09:13:34  
4 business operations, both from a people process and 09:13:38  
5 technology perspective. What our company was good 09:13:41  
6 at was coming in and helping you figure out what 09:13:42  
7 you needed, both from a -- you know, a business 09:13:44  
8 process reengineering, from a technology 09:13:48  
9 implementation and from a people configuration. 09:13:51  
10 Our premise was if you're not strong in those three 09:13:53  
11 areas, you're eventually not going to have a 09:13:56  
12 successful outcome. 09:13:59

13 Q Okay. 09:14:00

14 A So Chesapeake had a unique opportunity -- 09:14:00  
15 I did not -- while a good percentage of our 09:14:03  
16 deployments were actually in support of clinical 09:14:06  
17 research, I never heard an -- I never even heard of 09:14:09  
18 an IRB. In fact, when I met the owner, even going 09:14:13  
19 to the web site, I was still perplexed what -- it 09:14:17  
20 wasn't the world's best web site. 09:14:20

21 Q Right.

22 A But I asked him to explain what it was. 09:14:22  
23 So I had no -- no knowledge specifically of IRBs, 09:14:24  
24 no -- no thirst to go there, but it was just -- I 09:14:27  
25 saw it as an opportunity to help them transform 09:14:31

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1 that business, and he eventually wanted to do a 09:14:33  
2 transaction, so it -- it was interesting. 09:14:36  
3 Q So it came to be obviously that Linden 09:14:40  
4 acquires Chesapeake and/or merges it with Schulman. 09:14:54  
5 Can you tell me about that process and how that 09:14:58  
6 came to be in your mind? 09:15:00  
7 MR. O'BEIRNE: Form. 09:15:07  
8 MR. DEMERS: You can answer. 09:15:07  
9 A Okay. Just to be clear, it was from 09:15:08  
10 privately held Chesapeake -- 09:15:10  
11 Q Right. 09:15:11  
12 A -- to privately owned Audax Chesapeake, 09:15:11  
13 to then a Linden transaction. 09:15:14  
14 Q Okay. Can you tell me about the 09:15:15  
15 acquisition of Chesapeake by Audax? 09:15:19  
16 A Okay, the -- the transaction involving 09:15:22  
17 Linden buying Chesapeake. Typical -- 09:15:27  
18 MR. O'BEIRNE: Sorry, he asked you Audax, 09:15:31  
19 and you're answering Linden, just to make sure 09:15:34  
20 we're not talking past each other. 09:15:35  
21 A Linden -- Linden acquiring -- 09:15:38  
22 Q No, I'm -- I'm sorry. I did -- I did -- 09:15:38  
23 he -- Mr. O'Beirne's correct. I -- I want to take 09:15:39  
24 a step back sort of -- 09:15:43  
25 A Okay. 09:15:43

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1	Q	-- the beginning of what he said and just	09:15:43
2		kind of go through it.	09:15:44
3	A	Okay.	09:15:45
4	Q	So you said Chesapeake was acquired by	09:15:45
5		Audax?	09:15:47
6	A	Right.	09:15:47
7	Q	Can you tell me about that process, how	09:15:48
8		that --	09:15:50
9	A	So we -- we ran a modest transaction,	09:15:50
10		went through the, you know, typical management	09:15:53
11		presentations, had, you know, several bidders at	09:15:56
12		the end, picked Audax. So the -- the same usual	09:15:59
13		and customary things that you would do in all	09:16:03
14		subsequent transactions we did, just on a smaller	09:16:07
15		basis.	09:16:09
16	Q	Okay, and then eventually you said Linden	09:16:11
17		acquired --	09:16:16
18	A	Yeah, so then Linden subsequently	09:16:16
19		acquired the Audax-owned asset known as Chesapeake	09:16:19
20		IRB.	09:16:23
21	Q	Okay. How did that come about?	09:16:24
22	A	Well, it's a typical -- I guess we were	09:16:25
23		doing pretty well and typical hold period, so we	09:16:28
24		went, entered into a transaction and, you know, did	09:16:33
25		the normal private equity transaction process.	09:16:36

1           Q     Okay. What was your involvement in the           09:16:40  
2 sale process of Chesapeake to Linden, if any?           09:16:42

3           A     So I was -- I was a CEO, so I was the --           09:16:46  
4 I was the point person that led that, both from the           09:16:50  
5 -- working with Linden -- excuse me, working with           09:16:55  
6 Audax to say hey, is this a good time, should we do           09:16:58  
7 that, to being involved with any of the -- yeah,           09:17:00  
8 the book -- what do they call it? Confidential,           09:17:04  
9 the CIM, confidential information memorandums,           09:17:08  
10 preparing the team for -- preparing the           09:17:12  
11 organization for sale, you know, which is -- which           09:17:14  
12 we had started basically the day that we got           09:17:17  
13 purchased, and prior to that, we had started as a           09:17:21  
14 private company.           09:17:23

15           So tuning those particular things up from           09:17:24  
16 a financial perspective, so making ourselves           09:17:27  
17 presentable to organizations, leading the team that           09:17:30  
18 eventually created the deck, and then also           09:17:33  
19 identifying the executives that would be part of           09:17:37  
20 the management presentations, getting the -- the           09:17:39  
21 bids back, analyzing them from a fit perspective           09:17:43  
22 both from a price, but more importantly from what's           09:17:48  
23 life -- after the day that the money slides across           09:17:51  
24 the table, what's life going to be like, are they           09:17:54  
25 going to be able to support our growth aspirations,           09:17:57

1	which was a -- which was a same criteria at the	09:18:00
2	first -- you know, the first sale of Audax.	09:18:03
3	Looked at the let's say agreements from a	09:18:06
4	-- from a leverage perspective, from a covenant	09:18:12
5	perspective. Could organizations come in -- you	09:18:15
6	know, it's one thing to get a deal. Can a deal be	09:18:17
7	consummated? So, you know, certainty of close, if	09:18:21
8	you will.	09:18:24
9	Q Uh-huh.	09:18:24
10	A So basically everything that you would	09:18:25
11	expect a CEO that would have responsibility for the	09:18:27
12	operation of the organization as well as a	09:18:30
13	fiduciary responsibility to the shareholders of the	09:18:33
14	deal. So I was the point person that did that,	09:18:37
15	worked directly with Audax to eventually say we	09:18:40
16	think this is a team that would win. We were very	09:18:43
17	fortunate in going from one great organization to	09:18:48
18	another great organization, so -- so I guess we did	09:18:51
19	okay.	09:18:54
20	Q What -- what were the factors about	09:18:55
21	Linden specifically that made you want to go with	09:18:56
22	them?	09:18:59
23	MR. O'BEIRNE: Form.	09:19:00
24	BY MR. SANFILIPPO:	09:19:01
25	Q I mean, you did say you recommended	09:19:01

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1	Linden, correct?	09:19:04
2	MR. O'BEIRNE: Same.	09:19:05
3	MR. DEMERS: You can answer.	09:19:06
4	A Yeah, I did.	09:19:06
5	Q Okay, and so what were the reasons that	09:19:07
6	you did that?	09:19:09
7	MR. O'BEIRNE: Same.	09:19:11
8	MR. DEMERS: You can answer.	09:19:11
9	MR. O'BEIRNE: Sorry, and I don't mean to	09:19:12
10	--	09:19:14
11	THE WITNESS: No, no, no, no.	09:19:14
12	MR. O'BEIRNE: I'm just making these for	09:19:15
13	the record.	09:19:17
14	THE WITNESS: No, I get -- I get the -- I	09:19:18
15	get the -- you know, I'm here to, you know, do what	09:19:18
16	you guys need to do. So I'm sorry, can you repeat	09:19:20
17	the question again? I know you'll --	09:19:22
18	BY MR. SANFILIPPO:	09:19:24
19	Q Sure.	09:19:24
20	A -- give another form, but --	
21	Q Sure. What were the reasons that you	09:19:25
22	recommended Linden to Audax as the purchaser?	09:19:28
23	A Okay.	09:19:32
24	MR. O'BEIRNE: Form.	09:19:33
25	MR. DEMERS: You can answer.	09:19:34

1           A     For me it's -- it's the same in any type           09:19:34  
2 of transaction, even whether it's a business deal           09:19:38  
3 with just a client -- client perspective. First of           09:19:39  
4 all, when you're -- when you're giving your           09:19:43  
5 ownership and you're going to work for someone           09:19:46  
6 else, like I said, is that some -- is that an           09:19:47  
7 organization that maybe has a share, the same           09:19:49  
8 mission, guiding principles that your team has that           09:19:54  
9 you would like to be part of, is it -- is it a           09:19:56  
10 group that you can work with? Does the group have           09:19:58  
11 the ability, in the case of a private equity firm,           09:20:01  
12 especially when you're in the mid-market, does it           09:20:04  
13 have the ability both available and -- and           09:20:07  
14 demonstrated ability to pass -- to help you take           09:20:11  
15 your organization from where it is to where it           09:20:14  
16 could be. That includes obviously financial           09:20:16  
17 wherewithal, but it also as importantly requires           09:20:19  
18 domain expertise.   09:20:24

19           Q     Uh-huh.                                   09:20:25

20           A     Specifically in our case it would be           09:20:26  
21 health care as well as, you know, helping an           09:20:28  
22 organization at any point, any organization can           09:20:31  
23 improve itself, whether it's back office operations           09:20:35  
24 or whether it's financial reporting, whether it's,           09:20:39  
25 you know, ESG type things, whether it's, you know,           09:20:42

1 how you present yourself from a marketing 09:20:46  
2 perspective. 09:20:48  
  
3 So as we went through the things, those 09:20:48  
4 were our checklists. Those are our checklists in 09:20:51  
5 my opinion in every transaction that we did. 09:20:52  
  
6 Q Okay. 09:20:54  
  
7 A And Linden came up in our -- in my view 09:20:54  
8 and apparently Audax's as well as superior in all 09:20:57  
9 respects to the competition at the time. 09:21:01  
  
10 Q Were you involved in any acquisitions as 09:21:03  
11 president or CEO of an organization? 09:21:12  
  
12 MR. O'BEIRNE: Objection to the form. 09:21:15  
  
13 MR. DEMERS: You can answer. 09:21:16  
  
14 A Yeah, so -- so Chesapeake did three or 09:21:16  
15 four acquisitions under the Audax framework, again, 09:21:23  
16 same type of a scenario. The first one was a -- 09:21:28  
17 was a smaller entity, so it was fairly easy. The 09:21:31  
18 second one was a substantial acquisition of a 09:21:34  
19 Canadian company that did similar services. So 09:21:36  
20 again, if you're asking am I familiar with the due 09:21:38  
21 diligence process and the -- the transactional deal 09:21:41  
22 mechanics, yeah, absolutely. 09:21:46  
  
23 Q Okay. 09:21:47  
  
24 A So we did -- we did several transactions 09:21:48  
25 that were transformed either from a -- expanding 09:21:51

1 our capabilities either directly in what we were 09:21:57  
2 doing or perhaps adjacent kind of opportunities. 09:22:00  
3 We also picked things that were able to be fairly 09:22:03  
4 creative from a purchase price perspective, and 09:22:08  
5 then we would, you know, evaluate whether the deal 09:22:11  
6 would be perhaps debt or -- you know, debt or 09:22:14  
7 equity or a combination. So if you're -- so if 09:22:16  
8 you're asking do I know how to do it, my answer 09:22:18  
9 would be yeah. 09:22:21

10 Q Okay. When did you first meet Pat 09:22:22  
11 Donnelly? 09:22:26

12 A Well, I met him a couple times, you know, 09:22:26  
13 tangentially at conferences like DIA, so I knew who 09:22:33  
14 he was. I mean, he's a hard guy to sort of forget, 09:22:36  
15 you know. I'm short. He's pretty tall. 09:22:39

16 Q He is pretty tall.

17 A So --

18 Q I am not tall. 09:22:42

19 A Once you -- once you meet him, he's sort 09:22:43  
20 of a -- you know, not a forgettable person, if you 09:22:45  
21 will. 09:22:48

22 Q Uh-huh. 09:22:49

23 A But my probably first real interaction 09:22:49  
24 with him was when he was part of the Linden due 09:22:53  
25 diligence team. 09:22:57

1 Q Okay, okay. Do you recall the first 09:22:58  
2 conversation you had with Mr. Donnelly related to 09:23:01  
3 Linden due diligence of Chesapeake? 09:23:04  
4 A Not really, no. 09:23:06  
5 Q Okay, okay. Do you recall the first time 09:23:07  
6 you spoke to anyone at Linden related to Linden's 09:23:13  
7 acquisition or potential acquisition of Chesapeake? 09:23:18  
8 A Well, that would have been again in the 09:23:21  
9 -- in the process of Audax's sale to Linden, and so 09:23:26  
10 those conversations would have been primarily in 09:23:30  
11 management presentations or subsequent -- you know, 09:23:35  
12 you get down to the finalists and you have the -- 09:23:39  
13 the more serious due diligence. 09:23:42  
14 Q Okay. 09:23:44  
15 A I don't -- I guess when you're asking -- 09:23:45  
16 I don't recall having any one-on-one conversation 09:23:47  
17 that was not known to -- as part of the due 09:23:53  
18 diligence process in either case. 09:23:56  
19 Q What do you mean, in either case? 09:23:59  
20 A Pat Donnelly or Linden. 09:24:03  
21 Q Okay. Had you worked with operating 09:24:04  
22 partners at any other private equity firm prior to 09:24:15  
23 Linden's potential acquisition of Chesapeake? 09:24:20  
24 A So my experience would have been working 09:24:23  
25 directly for one private equity, and I don't recall 09:24:28

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1 that they had any operating partners. 09:24:31  
2 Q Okay. 09:24:33  
3 A They didn't use that type of model. 09:24:33  
4 Q What -- what did you understand Mr. 09:24:35  
5 Donnelly's role to be with respect to Linden's 09:24:39  
6 potential acquisition of Chesapeake? 09:24:41  
7 MR. O'BEIRNE: Objection to form. 09:24:44  
8 MR. DEMERS: Objection to form. You can 09:24:45  
9 answer. 09:24:47  
10 MR. O'BEIRNE: And foundation. 09:24:47  
11 MR. DEMERS: You can answer. 09:24:49  
12 BY MR. SANFILIPPO: 09:24:50  
13 Q Well, let me ask it differently. 09:24:50  
14 A Okay. 09:24:52  
15 Q Did you have any understanding of Mr. 09:24:52  
16 Donnelly's role with respect to Linden's potential 09:24:54  
17 acquisition of Chesapeake? 09:24:58  
18 MR. O'BEIRNE: Same. 09:25:00  
19 MR. DEMERS: You can answer. 09:25:00  
20 A Well, I mean, I guess I would say I 09:25:01  
21 didn't spend a lot of time thinking about that. I 09:25:04  
22 mean, he was part of -- when you're doing the 09:25:06  
23 presentations, he was one of a number of Linden 09:25:09  
24 and/or paid consultants at the time that were 09:25:13  
25 evaluating, you know, the goodness of our entity. 09:25:18

1 So I didn't -- I didn't spend much time thinking 09:25:22  
2 about what the relationship was other than I knew 09:25:27  
3 they worked for them and they were part of the 09:25:31  
4 evaluation team. I'm not sure that's answering 09:25:33  
5 your question, but that's a fact. 09:25:35

6 Q Sure. Did you have any understanding at 09:25:37  
7 the time of how Linden uses operating partners 09:25:42  
8 generally? 09:25:46

9 MR. DEMERS: Objection to form. 09:25:47

10 MR. O'BEIRNE: Same. 09:25:49

11 MR. DEMERS: You can answer. 09:25:49

12 THE WITNESS: Again, I would say I -- you 09:25:52  
13 know, once let's say under Linden ownership, I 09:25:54  
14 understood the basic concept of an operating 09:25:58  
15 partner, but that was kind of it. 09:26:00

16 BY MR. SANFILIPPO:

17 Q Okay. What was your understanding of the 09:26:03  
18 basic concept of an operating partner? 09:26:06

19 MR. O'BEIRNE: Foundation. 09:26:09

20 MR. DEMERS: You can answer. 09:26:09

21 A I would say that they -- at least in my 09:26:10  
22 experience, they're someone that was assigned to 09:26:19  
23 your company to provide support as was needed. 09:26:22

24 Q So after Linden acquires Chesapeake, what 09:26:27  
25 involvement did you have with the merger with -- 09:26:52

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1 between Chesapeake and Schulman to make Advarra? 09:26:55  
2 MR. O'BEIRNE: Objection to form. 09:26:59  
3 MR. DEMERS: You can answer. 09:27:00  
4 A Okay. Well, essentially we had -- we 09:27:01  
5 decided -- I had a longstanding relationship with 09:27:05  
6 their CEO, okay, so we were not -- not unknown to 09:27:09  
7 each other. Once the opportunity let's say in a 09:27:12  
8 very nascent way presented itself, we decided as a 09:27:18  
9 group that myself and that CEO would go off on a 09:27:22  
10 little clandestine operation, if you want to call 09:27:27  
11 it that, where in my case I was the only person in 09:27:30  
12 our company that knew that there were even 09:27:34  
13 discussions going on, I assume the same level of 09:27:36  
14 confidentiality on the other side. And so for a 09:27:40  
15 period of about six or seven months, in a sense I 09:27:42  
16 was the point person in terms of going back and 09:27:46  
17 forth between, you know, Chesapeake and -- and 09:27:49  
18 Schulman. 09:27:54  
19 Q Okay. Now, prior to the merger of 09:27:54  
20 Chesapeake and Schulman, what was Mr. Donnelly's 09:27:57  
21 role with respect to Chesapeake? 09:28:00  
22 MR. DEMERS: Objection. You can answer. 09:28:03  
23 BY MR. SANFILIPPO: 09:28:04  
24 Q If you recall. 09:28:04  
25 A Yeah, okay, so that was -- so he was 09:28:06

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1 obviously a member of the board, and he provided 09:28:22  
2 some level of oversight of what we were doing. 09:28:26

3 Q Who was the -- you said the CEO of 09:28:32  
4 Schulman? 09:28:42

5 A Yes. 09:28:42

6 Q Who was that? 09:28:42

7 A A guy named Michael Woods. 09:28:43

8 Q Okay, and so after you and Mr. Woods had 09:28:46  
9 your clandestine operation -- 09:28:48

10 A And that's maybe a -- 09:28:51

11 Q Sure. 09:28:52

12 A I might have chosen a different word. 09:28:53

13 Let's put it that way. That has -- that has -- 09:28:55  
14 well, no, let's just -- let's get it on the record 09:28:57  
15 so it's clear, okay? That has an air of unsavory 09:28:59  
16 activity. 09:29:05

17 Q I understood it as a turn of phrase. 09:29:05

18 A Okay. Well, I just want to make -- you 09:29:07  
19 know, because somebody else is going to read -- or 09:29:08  
20 listen to this stuff, and they're going to say oh, 09:29:09  
21 that sounds really weird. It was absolutely above 09:29:11  
22 board, known to all parties. There were no 09:29:17  
23 discussions that were not within the fiduciary 09:29:19  
24 responsibility or just good thing. It was 09:29:24  
25 conducted in a manner that was confidential to the 09:29:27

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1 two chief executive officers and their team. 09:29:31  
2 Q Understood. 09:29:34  
3 A So I -- I made sure that none of my 09:29:35  
4 people -- I literally -- they did not know that we 09:29:38  
5 were doing this until we announced it from a board 09:29:41  
6 resolution. I suspect Mr. -- Mr. Woods did the 09:29:44  
7 same thing, but there was no -- I was not out on an 09:29:48  
8 activity that was hey, Jeff, just go out and root 09:29:51  
9 around and figure out what you can find. I mean, 09:29:57  
10 it was a -- you know, a chain of command type 09:30:00  
11 activity. Let me make sure that's a hundred 09:30:04  
12 percent clear. 09:30:07  
13 Q Understood, sir. I am in no way here to 09:30:08  
14 --  
15 A Okay.  
16 Q -- impugn your character. So after you 09:30:12  
17 met with Mr. Woods -- 09:30:14  
18 A Right.  
19 Q -- what -- what happened then? What 09:30:19  
20 steps did you take? 09:30:21  
21 A Well, there was a period of -- of back 09:30:21  
22 and forth. The first thing was like, you know, 09:30:23  
23 initial kumbaya, hey, what do you think? And there 09:30:25  
24 was a lot of goodness from a synergy perspective. 09:30:29  
25 Even though we did the same things, we did them in 09:30:34

1 a slightly different manner, had a slightly 09:30:36  
2 different set of clients. 09:30:39

3 And so there was also -- hey, it was no 09:30:40  
4 surprise to me or I think anyone else that that 09:30:43  
5 industry was going to be consolidated. There was a 09:30:46  
6 bunch of tiny things that did an important task in 09:30:49  
7 the clinical research. It was ripe for 09:30:52  
8 consolidation. It's one reason why I joined 09:30:54  
9 Chesapeake initially. So it was a logical thing to 09:30:57  
10 do, but we -- you know, but just because it's a 09:31:00  
11 good thing maybe financially or capability wise 09:31:02  
12 doesn't mean it's a good thing to do. 09:31:07

13 Q Uh-huh. 09:31:10

14 A So we kind of worked through those 09:31:10  
15 scenarios, you know, sort of the idea of how might 09:31:12  
16 it look, and we got to a point where the four 09:31:15  
17 parties, the two private equity companies and 09:31:19  
18 ourselves agreed it made sense, and then we went to 09:31:22  
19 a more formal -- I don't want to infer that this 09:31:25  
20 process was not formal, because it certainly was, 09:31:31  
21 but we, you know, made it more of a transactional 09:31:35  
22 process -- a process with a transaction in mind. 09:31:37

23 Q Was it -- pardon my terminology if it's 09:31:41  
24 inaccurate here. I'm trying to get the concept, 09:31:48  
25 but was it a -- sort of a direct merger or was 09:31:51

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1	there -- was it shopped about, do you know?	09:31:55
2	A No, it was a direct --	09:31:57
3	MR. DEMERS: Objection. You can answer.	09:31:59
4	MR. O'BEIRNE: Yeah, okay.	09:32:00
5	A I'm sorry. Sorry, I jumped the gun	09:32:01
6	there. It was a direct merger.	09:32:04
7	Q Okay. And so who -- did you -- so you	09:32:05
8	met with Mr. Woods, and -- and then what?	09:32:17
9	Diligence happened?	09:32:21
10	A Well, I guess we had a series -- I would	09:32:23
11	say -- it wasn't like we met one time and -- and	09:32:29
12	then we moved on. It was a series of, you know,	09:32:31
13	okay, this makes sense, I'm going to report back	09:32:35
14	to, you know, my team, you report back to your	09:32:39
15	team, and eventually we kind of nicked it down	09:32:41
16	where we saw -- we saw there was a way forward, and	09:32:45
17	then it -- then it transformed itself to more what	09:32:48
18	I would call a typical transaction as opposed to a	09:32:52
19	focused conversation. That's a -- that's a good	09:32:55
20	way to describe it.	09:33:00
21	Q Sure.	09:33:01
22	A It's probably not technical, but --	09:33:02
23	Q When did Mr. Donnelly get involved?	09:33:03
24	A I would say probably around the time that	09:33:06
25	we were doing the -- or the board was deciding	09:33:14

1                   whether we were going to proceed.                   09:33:17

2                   Q        Okay, and what was Mr. Donnelly's                   09:33:19  
3                   involvement, to your knowledge?                   09:33:26

4                   A        Well, he was -- let me try to remember.                   09:33:27

5                   At that time he was not -- no, he would have -- I                   09:33:37

6                   guess I didn't see any difference between his                   09:33:40

7                   operational -- excuse me, operating partner day to                   09:33:43

8                   day before or after except that we had one more                   09:33:50

9                   topic to talk about, which was the potential                   09:33:53

10                   merger.   09:34:02

11                   Q        Okay. Did -- strike that. Was Mr.                   09:34:02

12                   Donnelly involved in doing due diligence on                   09:34:10

13                   Schulman?   09:34:14

14                   A        Yeah, once we -- once we decided to go                   09:34:15

15                   forward, he participated as part of a team that                   09:34:20

16                   went through that.                                   09:34:26

17                   Q        Okay. Do you know whether Mr. Donnelly                   09:34:27

18                   attended any investment team meetings related to                   09:34:30

19                   that?   09:34:32

20                   MR. O'BEIRNE: Objection, form,                   09:34:34

21                   foundation.   09:34:35

22                   MR. DEMERS: You can answer.                   09:34:35

23                   A        When you say investment team, meaning --                   09:34:37

24                   Q        Linden's investment team.                   09:34:38

25                   MR. O'BEIRNE: Same.                           09:34:41

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1           A     Meaning -- I'm struggling with the term           09:34:42  
2     "investment team." Does that include -- I mean,           09:34:49  
3     what -- what specifically about it?                   09:34:50  
4           Q     Do you know if Mr. Donnelly attended any           09:34:51  
5     meetings with Linden partners to discuss the merger           09:34:53  
6     of Chesapeake and Schulman?                           09:35:00  
7   09:35:04  
8   09:35:04  
9           A     I would imagine he did. I'm not sure he           09:35:05  
10    shared that with me, so --                           09:35:07  
11           Q     Okay. Did you attend any meetings with           09:35:09  
12    Linden partners regarding the merger of Schulman           09:35:12  
13    and Chesapeake?   09:35:17  
14   09:35:19  
15   09:35:19  
16    A     I'm -- just so we're clear, I'm defining           09:35:20  
17    partner as someone that would be a significant           09:35:23  
18    stakeholder in the -- in the entity called Linden.           09:35:26  
19           Q     Sure. I'm not -- that's fair. I'm not           09:35:31  
20    trying to discern between -- necessarily between a           09:35:36  
21    partner and a vice president or principal.                   09:35:39  
22           A     Okay.   09:35:41  
23           Q     But someone who works directly for Linden           09:35:42  
24    managing the investment that they have in                   09:35:45  
25    Chesapeake and Schulman, did you meet directly with           09:35:47

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1 any of those people? 09:35:50  
2 A Oh, yeah, yeah, Kam Shah and Tony Davis 09:35:51  
3 specifically. 09:35:58  
4 Q Were -- was Mr. Donnelly involved in 09:35:58  
5 those meeting? 09:36:01  
6 A Sometimes, and sometimes not. 09:36:03  
7 Q Okay. 09:36:04  
8 A But again, that was a -- that would be 09:36:05  
9 like a usual -- the usual course of business. 09:36:07  
10 Q Okay. Did -- did Mr. Donnelly provide 09:36:09  
11 you with any advice and counsel regarding the 09:36:14  
12 operations of the entity? 09:36:18  
13 MR. DEMERS: Objection to form. You can 09:36:21  
14 answer. 09:36:22  
15 MR. O'BEIRNE: Same. 09:36:22  
16 A I don't -- I don't recall anything that I 09:36:23  
17 would say was particularly material. 09:36:37  
18 Q Okay. 09:36:40  
19 A I mean, obviously as a -- well, I'll just 09:36:50  
20 let it stay there. 09:36:54  
21 Q Did you have anything that you -- 09:36:55  
22 A No, no. 09:36:57  
23 Q -- wanted to add? 09:36:58  
24 A No. 09:36:59  
25 Q So after the merger -- 09:37:00

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1 A Uh-huh. 09:37:08  
2 Q What was your position after the merger? 09:37:09  
3 A So after the merger, I was the president 09:37:12  
4 of Advarra. 09:37:16  
5 Q Okay, and Mr. Donnelly came on board as 09:37:18  
6 the CEO; is that correct? 09:37:21  
7 A Correct. 09:37:22  
8 Q Okay. When did you learn that you would 09:37:23  
9 not be the CEO of the combined entity? 09:37:25  
10 A October 3rd of I think it was 2017, so -- 09:37:28  
11 so a few -- maybe a week or so before the -- the 09:37:39  
12 actual consummation of the deal. 09:37:45  
13 Q Okay. How did you learn that? 09:37:49  
14 A I was asked to come up to Chicago, meet 09:37:50  
15 with Tony, Kam and Pat. 09:37:54  
16 Q Okay. Who actually spoke to you at that 09:37:58  
17 meeting and told you that you would not be the CEO? 09:38:01  
18 A Who specifically said the words? 09:38:04  
19 Q Yeah. 09:38:08  
20 A I'm pretty sure it was Tony. I mean, he 09:38:09  
21 was -- he had the lead, so -- 09:38:16  
22 Q What reasons did he give you for that, if 09:38:18  
23 you recall? 09:38:22  
24 A That -- I guess they fundamentally -- I 09:38:22  
25 maybe don't -- they start -- Pat was I guess better 09:38:49

1	suited to do it.	09:38:54
2	MR. DEMERS: And -- and for all of these	09:38:55
3	questions, he's not asking you to kind of	09:38:57
4	speculate. It's only for --	09:38:58
5	THE WITNESS: Yeah.	09:38:58
6	MR. DEMERS: -- what --	09:38:58
7	THE WITNESS: Yeah.	
8	MR. DEMERS: -- you actually recall.	09:38:59
9	THE WITNESS: Yeah, yeah.	09:39:00
10	BY MR. SANFILIPPO:	09:39:01
11	Q Yeah, so you don't -- am I correct in	09:39:01
12	understanding that you don't recall specifically	09:39:03
13	what reasons he gave you?	09:39:05
14	A That's probably -- that's a fair	09:39:07
15	assessment, yeah. I mean, I got the point. I --	09:39:13
16	kind of didn't really matter I guess.	09:39:21
17	Q Do you recall whether he gave you any	09:39:23
18	reasons?	09:39:26
19	A Yeah, they gave -- you know, they gave me	09:39:27
20	some -- I guess, like I said, I guess the -- the	09:39:30
21	general way I would sum it up was they thought that	09:39:38
22	perhaps Pat from a scale perspective might have	09:39:41
23	more experience, be the way I'd describe it. I'm	09:39:44
24	not saying -- you know, I mean, that's --	09:39:49
25	O Do you know who made the decision to make	09:39:51

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1 Mr. Donnelly CEO? 09:39:53  
2 MR. O'BEIRNE: Form, foundation. 09:39:57  
3 MR. DEMERS: You can answer. 09:39:58  
4 A I have no direct knowledge of who made 09:39:59  
5 the decision, nor how it would have even come up as 09:40:01  
6 a topic. 09:40:05  
7 Q Do you feel that decision was the right 09:40:06  
8 decision? 09:40:16  
9 A It's not what I would have done, but I 09:40:17  
10 mean, it turned out okay. 09:40:23  
11 Q Okay. So after the merger, Mr. 09:40:24  
12 Donnelly's the CEO, you're the president. 09:40:31  
13 A Correct. 09:40:34  
14 Q How was your working relationship with 09:40:35  
15 Mr. Donnelly? 09:40:36  
16 A I would say it would be what you would 09:40:37  
17 expect of a relationship between a CEO and a 09:40:40  
18 president. You know, frankly, I continued to run 09:40:42  
19 the operations. I reported to him as -- you know, 09:40:47  
20 I had -- you know, I understand how a chain of 09:40:51  
21 command works, very respectful of that, so I did -- 09:40:54  
22 basically kept doing what I was doing, which also 09:41:00  
23 involved the integration of the two entities, which 09:41:03  
24 was not trivial. So I led that component from an 09:41:05  
25 operational perspective. 09:41:09

1                   The next despondent -- or no, the next           09:41:12  
2 person that sits in this chair did more or less the           09:41:16  
3 financial piece of that, but I did all the           09:41:19  
4 operations part.   09:41:21

5                   Q        Okay. And what did Mr. Donnelly do?           09:41:22

6                   A        Oh, he was the CEO. We reported in to           09:41:24  
7 him as to what we were doing.                                   09:41:29

8                   Q        Okay. Did you have a good working           09:41:30  
9 relationship with Mr. Donnelly?                                   09:41:33

10                  A        Yeah.   09:41:34

11                  Q        Did you feel he was capable as the CEO?           09:41:34

12                  A        Yeah, yeah.                                   09:41:37

13                  Q        Did you have any issues with the amount           09:41:41  
14 of hours that Mr. Donnelly was working?                   09:41:46

15                  MR. O'BEIRNE: Form.                                   09:41:51

16                  MR. DEMERS: You can answer.                           09:41:52

17                  A        I would say at times, it appeared to me           09:41:52  
18 that he was perhaps distracted on other tasks not           09:42:05  
19 necessarily related to Advarra.                                   09:42:09

20                  Q        What is the basis for that belief?           09:42:13

21                  A        Well, let's say -- so I'm not a person           09:42:23  
22 that needs a lot of guidance as to -- or hand-           09:42:29  
23 holding. You tell me what to do, I go off and do           09:42:34  
24 it. I do two things. If I have a question, I come           09:42:35  
25 back and ask you hey, I'm thinking about this, what           09:42:37

1 do you think? And the second thing, I report back 09:42:39  
2 as to what the status is specifically if something 09:42:41  
3 appears on the horizon as being a problem, okay? 09:42:44  
4 That's just how I operate. 09:42:48

5 Q Uh-huh. 09:42:49

6 A Okay, so it's like have the cards face up 09:42:50  
7 on the table, let me make sure that you're apprised 09:42:52  
8 of the important things that we're doing. You 09:42:56  
9 don't need to know every little detail, and then, 09:42:58  
10 you know, occasionally say given a choice between A 09:43:01  
11 and B, what do you think, you know, if I -- if I 09:43:04  
12 don't know what to do, but it's more of a -- I 09:43:06  
13 won't say it's a tell, but it's more hey, I've 09:43:09  
14 analyzed this situation, this is what we need to 09:43:12  
15 do, are you okay doing that, that type of scenario. 09:43:14

16 Q Okay. 09:43:18

17 A So as those things came up, I would 09:43:18  
18 obviously seek counsel, or seek -- seek an 09:43:21  
19 audience, okay, because it's appropriate for the 09:43:22  
20 president of the organization to make sure the 09:43:25  
21 CEO's fully informed. There'd be times where I 09:43:27  
22 would try to get in touch with Pat Donnelly, and it 09:43:32  
23 might be honestly several days before I can get a 09:43:35  
24 -- a phone audience. 09:43:38

25 Q Okay. Did you have an understanding as 09:43:39

1 to what Mr. Donnelly was doing during those days 09:43:44  
2 when you couldn't get ahold of him? 09:43:50  
3 MR. O'BEIRNE: Objection. 09:43:53  
4 MR. DEMERS: Objection. You can answer. 09:43:53  
5 MR. O'BEIRNE: Calls for speculation. 09:43:55  
6 BY MR. SANFILIPPO: 09:43:57  
7 Q I'm just asking if you had -- 09:43:57  
8 A Yes. 09:43:59  
9 Q -- an understanding of what he was doing. 09:43:59  
10 MR. O'BEIRNE: Same. 09:44:01  
11 A I didn't think -- hey, at the end of the 09:44:01  
12 day, I'm there to support and do what he needs to 09:44:05  
13 have done. What he's doing with his time that 09:44:08  
14 weren't directly related to me I didn't speculate 09:44:11  
15 nor pay much attention to, and -- 09:44:14  
16 Q Sure. Did you ever talk to him about it? 09:44:16  
17 A No. Like I never -- I guess if you're -- 09:44:18  
18 I mean, to directly answer your question, I never 09:44:21  
19 say hey, what the hell's going on, are you doing 09:44:24  
20 something -- pardon that. Sorry about that. What 09:44:27  
21 are -- what are you doing, I haven't been able to 09:44:29  
22 get in touch you with for a couple of days. So no, 09:44:34  
23 and -- and I -- I would not let something -- I 09:44:37  
24 mean, if the building was burning down and I 09:44:40  
25 couldn't get in touch with him, I'd find another 09:44:43

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1 way to do that, but no, I didn't speculate or 09:44:44  
2 inquire or have any real interest in what else was 09:44:47  
3 going on. 09:44:50

4 Q Were there any emergencies that came to a 09:44:51  
5 head without response from Mr. Donnelly, to your 09:44:57  
6 recollection? 09:45:02

7 A No, because that would have been 09:45:02  
8 something that I wouldn't have permitted to occur. 09:45:05

9 Q Do you believe that Mr. Donnelly had 09:45:08  
10 faith in you to run the operations of the company? 09:45:28

11 MR. DEMERS: Objection to form. You can 09:45:30  
12 answer. 09:45:33

13 A Well, if he didn't, it would have no 09:45:34  
14 basis in factual performance, so I would assume. 09:45:42  
15 He's a pretty smart guy and he would have therefore 09:45:45  
16 had faith in me. I had no indication that he 09:45:49  
17 didn't. 09:45:52

18 Q So is it fair to say that if Mr. Donnelly 09:45:52  
19 let you run the operations of the company, he might 09:46:00  
20 have done so because he had faith in you to do so? 09:46:03

21 MR. O'BEIRNE: Form. 09:46:06

22 MR. DEMERS: Objection. You can answer. 09:46:07

23 THE WITNESS: I'm sorry, could you say 09:46:09  
24 that again? I'm not sure I understood the -- 09:46:11

25 MR. SANFILIPPO: Can you please read the 09:46:14

1 question back to the witness, Karen? 09:46:16

2 THE REPORTER: Question: "So is it fair 09:46:27

3 to say that if Mr. Donnelly let you run the

4 operations of the company, he might have done so

5 because he had faith in you to do so?" 09:46:28

6 MR. DEMERS: Same objection. You can 09:46:28

7 answer. 09:46:30

8 THE WITNESS: Yeah, I mean, I'm not sure 09:46:34

9 how that -- I mean, the answer would be yeah, I 09:46:36

10 don't -- I would assume if he didn't, he would have 09:46:40

11 done something else. 09:46:43

12 BY MR. SANFILIPPO: 09:46:44

13 Q Have you ever had any issues getting paid 09:46:44

14 by Linden some amount of compensation that you felt 09:46:50

15 they owed you? 09:46:55

16 MR. O'BEIRNE: Form. 09:46:56

17 MR. DEMERS: You can answer. 09:46:57

18 A No. 09:46:57

19 Q Are you aware of any other situation 09:46:58

20 where a individual has claimed that Linden has not 09:47:13

21 paid them an earned fee or bonus or monetary 09:47:19

22 amount? 09:47:24

23 MR. O'BEIRNE: Form, foundation. 09:47:25

24 MR. DEMERS: You can answer. 09:47:26

25 A No. 09:47:27

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1 Q Now, I know we talked about your 09:47:33  
2 background, but just to ask you directly, have you 09:48:07  
3 ever been an operating partner for Linden? 09:48:08  
4 A No. 09:48:10  
5 Q Do you know whether Mr. Donnelly was 09:48:10  
6 working as an operating partner while he was the 09:48:35  
7 CEO of Linden -- oh, strike that question. Do you 09:48:38  
8 know if Mr. Donnelly was working as an operating 09:48:42  
9 partner while he was the CEO of Advarra? 09:48:45  
10 MR. O'BEIRNE: Calls for speculation. 09:48:49  
11 MR. DEMERS: You can answer. 09:48:51  
12 A Along the lines of speculation, I would 09:48:52  
13 agree, but my -- at least my understanding of the 09:48:54  
14 CEO role as a Linden -- as a person who works for 09:48:57  
15 Linden is that was a full-time job. So in other 09:49:03  
16 words, like if someone -- like it was clear to me, 09:49:08  
17 when I was the CEO of Linden, that's what I did. 09:49:10  
18 As far as -- 09:49:14  
19 MR. DEMERS: I think you said CEO, CEO of 09:49:14  
20 Linden. 09:49:16  
21 A Excuse me, yeah. Maybe some day. Of -- 09:49:16  
22 of Chesapeake slash -- I guess Chesapeake at that 09:49:20  
23 time. So that was made clear to me that that's a 09:49:23  
24 full-time job, but I don't know -- I don't have any 09:49:27  
25 speculation on, you know, Pat's situation. 09:49:30

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1	MR. SANFILIPPO: Okay. I just want to	09:49:34
2	note for the record my objection to Mr. O'Beirne's	09:49:35
3	speaking objections. Speculation is a form	09:49:38
4	objection. You are welcome to make a form	09:49:42
5	objection.	09:49:46
6	THE WITNESS: Well, so as a -- as a	09:49:47
7	rebuttal -- or as a joinder to that --	09:49:48
8	MR. DEMERS: He hasn't asked you --	09:49:52
9	THE WITNESS: Oh, okay. Got it.	09:49:55
10	MR. DEMERS: -- a question, but if he	09:49:56
11	follows up, you're welcome to answer.	09:49:56
12	THE WITNESS: Okay, got it. Got it.	09:49:59
13	Thank you.	09:50:02
14	BY MR. SANFILIPPO:	09:50:02
15	Q Mr. Wendel, in preparing for your	09:50:02
16	deposition today, did you ever meet with Mr.	09:50:05
17	O'Beirne?	09:50:07
18	A I saw him in the hallway about ten	09:50:07
19	minutes before we started.	09:50:09
20	Q Okay. Did you discuss the substance of	09:50:10
21	your testimony?	09:50:12
22	A No.	09:50:13
23	Q Okay. Did you discuss your testimony	09:50:13
24	with anyone from Mr. O'Beirne's law firm?	09:50:17
25	A No.	09:50:21

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1 Q So you -- am I correct that you were 09:50:21  
2 still the president of Advarra when Advarra was 09:50:49  
3 sold to Genstar? 09:50:53  
4 A Correct. 09:50:56  
5 Q Okay. What was your involvement in that 09:50:57  
6 transaction? 09:51:00  
7 A So I became fully involved when we 09:51:00  
8 decided to start the process, which was started in 09:51:09  
9 early -- let's see, it would have been 2019. 09:51:15  
10 Q Okay. 09:51:21  
11 A So my -- my main role -- so there was two 09:51:21  
12 things to the -- that I think were germane to that 09:51:25  
13 transaction. One was to continue to hit on the 09:51:28  
14 operating performance or exceed that, so that was 09:51:31  
15 certainly a primary focus. I became let's say 09:51:34  
16 fully engaged in the sale process again when we 09:51:40  
17 started going down the road of creating the -- the 09:51:43  
18 CIMs and the strategy, and you know, what are we -- 09:51:47  
19 what are we looking for, how are we going to 09:51:51  
20 present our strategy moving forward, so the typical 09:51:52  
21 things that eventually result in a management 09:51:57  
22 presentation. 09:51:59  
23 Q Okay. Did -- do you know what Mr. 09:51:59  
24 Donnelly's role was in the sale of Advarra? 09:52:05  
25 MR. O'BEIRNE: Form, foundation. 09:52:11

1                   MR. DEMERS: You can answer.                   09:52:12

2                   A       I mean, I -- no one, let's say,           09:52:12

3                   explicitly told me, but having been a CEO and done           09:52:14

4                   it, I assume he was doing the same thing that I           09:52:18

5                   would have done, you know, in terms of both the --           09:52:20

6                   you know, from a presenting the company perspective           09:52:24

7                   as well as grinding through the preparations and           09:52:29

8                   the due diligence.                                   09:52:32

9                   Q       Okay. Do you have any understanding as           09:52:32

10                   to whether Mr. Donnelly was doing things other than           09:52:36

11                   things a CEO typically does when a company is sold?           09:52:40

12                   MR. DEMERS: Objection to form.                   09:52:45

13                   MR. O'BEIRNE: And foundation.                   09:52:47

14                   MR. DEMERS: You can answer.                           09:52:47

15                   A       I'm not sure what would fall into the           09:52:48

16                   category of the something else. If you can give me           09:52:55

17                   an example, that might help.                           09:52:59

18                   Q       Okay. Well, work that would be performed           09:53:01

19                   by an operating partner. I'm just -- I'm just           09:53:04

20                   trying to understand whether you have testimony           09:53:06

21                   related to this or whether you don't know, do know.           09:53:08

22                   Do you know what Mr. Donnelly was doing outside of           09:53:12

23                   his typical work as a CEO?                           09:53:16

24                   MR. O'BEIRNE: Form, foundation.                   09:53:18

25                   MR. DEMERS: You can answer.                           09:53:19

1       A     I guess I would say not really with the                   09:53:20  
2 exception of prior to the -- to the CEO transition,           09:53:25  
3 I know he was an operating partner and I know he           09:53:29  
4 had at least one other entity that he was                   09:53:32  
5 overseeing, so I assume he did a similar function           09:53:34  
6 for them that he did for us, but I have no -- no           09:53:38  
7 direct knowledge, nor did I, you know, worry about           09:53:43  
8 that.    09:53:46

9        Q     Did you -- did you and Mr. Donnelly ever           09:53:46  
10 discuss his operating partner position with Linden?    09:53:48

11      A     No.    09:53:52

12      Q     Did you ever discuss Mr. Donnelly's            09:53:52  
13 operating partner position at Linden with anyone        09:53:55  
14 who was employed by Linden?                                09:53:57

15      A     I don't recall having any conversation at        09:54:01  
16 all relating to Mr. Donnelly being or not being an        09:54:05  
17 operating partner or what tasks are explicitly        09:54:10  
18 stated for that person to do. I mean, I                   09:54:17  
19 observationally see what happens. I assume that's       09:54:20  
20 what -- you know, I don't have any direct               09:54:23  
21 knowledge. I don't --                                    09:54:25

22      Q     Okay. In preparing for your testimony        09:54:26  
23 today, did you speak to anyone at Linden?               09:54:27

24      A     Well, they told me that I'd eventually        09:54:30  
25 get a subpoena, so yeah.                                    09:54:33

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1	Q	Who was that?	09:54:34
2	A	Kam.	09:54:35
3	Q	Okay. When did that occur?	09:54:37
4	A	Maybe -- maybe two weeks before the	09:54:39
5		subpoena arrived.	09:54:49
6	Q	Apologies for that.	09:54:50
7	A	That's okay.	09:54:52
8	Q	Maybe two weeks before the subpoena came	09:54:52
9		out?	09:54:55
10	A	Yeah.	09:54:55
11	Q	And did he tell you why you'd be getting	09:54:56
12		a subpoena?	09:55:00
13	A	Well, he told me that there was a point	09:55:00
14		of contention, but you know --	09:55:06
15	Q	Did he tell you what the point of	09:55:07
16		contention was?	09:55:09
17	A	No.	09:55:10
18	Q	Was Mr. Shah the only person that you	09:55:10
19		spoke to at Linden?	09:55:17
20	A	Yes.	09:55:18
21	Q	Okay. Did you discuss with anyone at	09:55:19
22		Linden what you would be testifying about?	09:55:24
23	A	No. I had no idea what the questions	09:55:28
24		were, so I wouldn't have any -- you know.	09:55:34
25	Q	Do you have any knowledge of when Mr.	09:55:36

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1	Donnelly ceased being an operating partner?	09:56:05
2	MR. O'BEIRNE: Form, foundation.	09:56:09
3	MR. DEMERS: You can answer.	09:56:10
4	A      When he ceased being an operating	09:56:11
5	partner? No, I do not.	09:56:12
6	Q      Do you have any knowledge of the terms of	09:56:14
7	Mr. Donnelly's operating partner agreement?	09:56:34
8	MR. O'BEIRNE: Same.	09:56:38
9	THE WITNESS: no.	09:56:38
10	MR. DEMERS: You can answer.	09:56:38
11	THE WITNESS: No, I do not. I'm sorry.	09:56:39
12	BY MR. SANFILIPPO:	09:56:42
13	Q      Do you have any knowledge regarding Mr.	09:56:42
14	Donnelly's membership in other boards of directors?	09:56:43
15	MR. O'BEIRNE: Same.	09:56:49
16	A      Could I name any of them, no. I believe	09:56:51
17	that he might be involved with other organizations,	09:57:02
18	but I could not --	09:57:04
19	Q      Any knowledge --	09:57:07
20	A      I have no direct knowledge.	09:57:07
21	Q      -- roles or responsibilities with --	09:57:09
22	A      No.	09:57:11
23	MR. DEMERS: We've been going for close	09:57:42
24	to an hour. Are you --	09:57:44
25	THE WITNESS: Yeah, I'm fine, yeah. Okay	09:57:46

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1 if I grab a -- grab a water? 09:57:50  
2 MR. DEMERS: Of course. 09:57:54  
3 MR. O'BEIRNE: I got you. 09:57:55  
4 BY MR. SANFILIPPO: 09:57:56  
5 Q Do you have any agreement -- 09:57:56  
6 MR. O'BEIRNE: Hold on. Give me -- let 09:57:58  
7 me get back on the mic. 09:57:59  
8 MR. SANFILIPPO: Oh, sorry. 09:58:00  
9 THE WITNESS: Thank you. Sorry. Thank 09:58:01  
10 you. 09:58:07  
11 BY MR. SANFILIPPO: 09:58:11  
12 Q Take your time. 09:58:11  
13 A Oh, sorry. 09:58:12  
14 Q No problem. Take your time. Are you 09:58:13  
15 ready? 09:58:15  
16 A Yeah. 09:58:15  
17 Q Okay. Do you -- do you have any direct 09:58:16  
18 agreement with Linden that provides you 09:58:18  
19 compensation? 09:58:20  
20 A Direct with Linden, no. 09:58:21  
21 Q Have you ever had an agreement direct 09:58:26  
22 with Linden that provides you compensation? 09:58:28  
23 A No. 09:58:30  
24 Q Now, did you have any involvement in 09:58:30  
25 Linden's acquisition of Drug Safety Solutions? 09:58:47

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1                   MR. O'BEIRNE: Objection to the form and           09:58:54  
2 foundation.   09:58:55  
3                   MR. DEMERS: You can answer.                           09:58:56  
4                   A       Did I have any involvement in the --           09:58:56  
5                   well, so that's a little bit of a complicated           09:59:01  
6                   question. Drug Safety Solutions was a component           09:59:07  
7                   part of a thing called MaGil IRB. I had been           09:59:10  
8                   working that opportunity, acquisition opportunity           09:59:15  
9                   for several years directly with its -- its owner,           09:59:19  
10                   it was a -- it was not a big entity, for the           09:59:22  
11                   purpose of adding an IRB and also adding some           09:59:25  
12                   ancillary services that they provided through the           09:59:29  
13                   DSS name, Drug Safety Solutions.                   09:59:31  
14                   So I essentially took it to the -- to the           09:59:35  
15                   place where there was a deal on the table and a           09:59:41  
16                   deal consummated, or a deal framework consummated.           09:59:43  
17                   Subsequently, there was a decision taken to peel           09:59:48  
18                   off the Drug Safety Solutions component and the --           09:59:51  
19                   the doctor that was associated with that, who           09:59:56  
20                   happened to be the owner, and move that to a           09:59:59  
21                   different portfolio company. We retained primarily           10:00:02  
22                   the IRB piece. So am I familiar with the details           10:00:06  
23                   from a due diligence deal perspective, absolutely.           10:00:12  
24                   Q       Okay.   10:00:16  
25                   A       So that's how that -- that's how that           10:00:17

1 played out. So we got one part of it, which was 10:00:19  
2 frankly disappointing in that that provided us, as 10:00:26  
3 small as it might have been, I think an opportunity 10:00:31  
4 to more -- to accelerate our expansion into 10:00:35  
5 ancillary services. 10:00:38

6 Q So just to make sure I'm understanding 10:00:40  
7 you right, you were disappointed that you only got 10:00:54  
8 a small piece, and you felt that if you had gotten 10:00:56  
9 a larger piece, you could have expanded your 10:00:58  
10 opportunities in ancillary services? Is that what 10:00:59  
11 you were saying? 10:01:02

12 A Yeah. 10:01:03

13 MR. O'BEIRNE: Form, foundation. 10:01:04

14 BY MR. SANFILIPPO:

15 Q Okay. 10:01:05

16 A Yeah. 10:01:05

17 Q Okay. What was it about the other piece 10:01:06  
18 that you thought could have expanded your 10:01:08  
19 opportunity? 10:01:12

20 A Well, we had -- we had visions to do 10:01:12  
21 biosafety reviews as opposed to research reviews, 10:01:17  
22 typically -- things like the, you know, messenger 10:01:22  
23 RNA and those types of studies where that IRB had a 10:01:26  
24 tiny footprint in an IBC space. They had three or 10:01:32  
25 four projects, which we ended up keeping the 10:01:36

1 projects, but the -- the person that did that task 10:01:41  
2 moved on to the -- to another portfolio company. 10:01:44  
3 So that set us back from a -- let's say a 10:01:47  
4 acceleration perspective. We needed to then beef 10:01:53  
5 up our fledgling opportunity, if you will. 10:01:56  
6 Likewise, they did some, you know, drug 10:02:02  
7 safety-related services. Again, this is not -- 10:02:05  
8 this is not like a gigantic company at this point, 10:02:09  
9 but it was an opportunity from my perspective to 10:02:13  
10 see how adjacent that service really was, in other 10:02:18  
11 words, would there be pull-through from hey, we're 10:02:22  
12 doing good work over here, is it a likely thing 10:02:26  
13 that a large pharma might employ us to do that. 10:02:29  
14 Since it had some projects, it would be -- it'd be 10:02:32  
15 a way for us to expand into that -- which is a 10:02:35  
16 logical adjacency from a safety perspective just by 10:02:38  
17 its name, just like if the primary goal of a IRB is 10:02:44  
18 to provide the safe conduct from a human 10:02:48  
19 perspective of research, so it's -- was a fairly 10:02:51  
20 logical scenario. 10:02:55  
21 Q Were you familiar with the operations of 10:02:57  
22 ProPharma? 10:03:00  
23 A I know of ProPharma. I didn't -- I met 10:03:01  
24 their CEO once. I didn't -- 10:03:03  
25 Q Okay. 10:03:05

1 A You know, again, they're a portfolio 10:03:06  
2 company. 10:03:09

3 Q Is it fair to say that you then disagreed 10:03:09  
4 with having the majority of DSS go into ProPharma 10:03:12  
5 instead of Advarra? 10:03:16

6 A Yeah, absolutely. 10:03:18

7 MR. O'BEIRNE: Hold on. Form, 10:03:19  
8 foundation. 10:03:21

9 THE WITNESS: Sorry. 10:03:21

10 MR. DEMERS: Objection. You can answer. 10:03:21

11 THE WITNESS: Yeah, I absolutely 10:03:23  
12 disagreed with that decision. 10:03:25

13 BY MR. SANFILIPPO: 10:03:26

14 Q Okay. And do you know who made that 10:03:26  
15 decision? 10:03:28

16 A No. 10:03:30

17 Q Okay. Do you know -- strike that. Do 10:03:35  
18 you have any understanding of what Mr. Donnelly's 10:03:42  
19 role in sourcing that deal was? 10:03:44

20 MR. O'BEIRNE: Same. 10:03:46

21 A Well, from my perspective, Mr. Donnelly 10:03:47  
22 had no role in sourcing that opportunity. 10:03:50

23 Q Okay. 10:03:53

24 A That was something that I had been 10:03:54  
25 working on for a period of time. It eventually -- 10:03:56

1 and many of these deals where you're working with a 10:04:00  
2 smaller company and the initial owner, it's a long 10:04:02  
3 courtship process as opposed to a company buying 10:04:07  
4 another company. So those had been ongoing 10:04:09  
5 conversations over a period of years where we -- 10:04:12  
6 I'd basically gotten it to a point where the -- the 10:04:17  
7 owner was interested in actually considering a 10:04:20  
8 transaction. 10:04:25

9 Q Are you referring to Dr. Gil Price? 10:04:26

10 A Yes. 10:04:28

11 Q Do you have any knowledge with respect to 10:04:28  
12 Mr. Donnelly's relationship with Dr. Price? 10:04:30

13 A He -- I would say he had a similar 10:04:34  
14 relationship that I did. He's -- you know, Gil was 10:04:37  
15 a person that is reasonably well known. I know Pat 10:04:40  
16 knew him from the industry. Whether they ever 10:04:44  
17 worked together or not I don't recall. 10:04:47

18 Q Okay. Did you attend any meetings where 10:04:49  
19 Mr. Donnelly and Mr. Price discussed the 10:04:56  
20 acquisition of Drug Safety Solutions prior to the 10:04:59  
21 transaction closing? 10:05:10

22 A No, no. 10:05:11

23 Q Okay. 10:05:11

24 A I was not involved with any of those 10:05:11  
25 conversations, so no. 10:05:16

1 Q Okay, so you don't know when Mr. Donnelly 10:05:20  
2 and Mr. Price started discussing such a 10:05:23  
3 transaction? 10:05:26

4 A I don't --

5 MR. O'BEIRNE: Objection, form. 10:05:27

6 MR. DEMERS: You can answer. 10:05:28

7 A I don't know it for a fact, but I'd be -- 10:05:28  
8 I don't know, "certain" is probably too strong of a 10:05:34  
9 word, but I doubt had that deal been on the verge 10:05:36  
10 of being completed from a Advarra perspective, or I 10:05:43  
11 guess it was Chesapeake at that time, that any 10:05:48  
12 other entity within the family would have had 10:05:53  
13 knowledge of that opportunity. So if you're asking 10:05:57  
14 me if it's a -- again, I go back to the sourcing 10:05:59  
15 question. I don't believe Mr. Donnelly had any 10:06:04  
16 role in sourcing that opportunity. He certainly 10:06:06  
17 had a role in eventually shaping its -- the 10:06:09  
18 configuration of the deal to split things -- two 10:06:16  
19 things apart. 10:06:20

20 Q Okay. 10:06:21

21 A Because, you know, that was clear. 10:06:21

22 Q So what -- what is the basis of your 10:06:24  
23 belief that he didn't have any role in sourcing the 10:06:26  
24 transaction? 10:06:28

25 A Well, I guess he never said hey, I got 10:06:28

1 this great idea, let's go purchase MaGil IRB. It 10:06:39  
2 was something that had started well before Linden 10:06:44  
3 even owned us. When we had conversations with the 10:06:48  
4 principal, I never got a hey, by the way, I just 10:06:52  
5 want to let you know you got a little channel 10:06:54  
6 conflict here with your own organization because I 10:06:57  
7 got another guy talking to me, another team talking 10:06:59  
8 to me. That doesn't mean people aren't sometimes 10:07:02  
9 not fully transparent. I'd see Gil Price as a very 10:07:05  
10 transparent person, so from all those things, my 10:07:10  
11 conclusion is that I'm the guy that sourced the 10:07:13  
12 deal. 10:07:17

13 Q Okay. What was the basis of your 10:07:18  
14 understanding that Mr. Donnelly had a role in 10:07:23  
15 shaping the ultimate transaction? 10:07:27

16 A Well, he's the guy that informed me that 10:07:31  
17 we were going to peel off Drug Safety Solutions to 10:07:34  
18 ProPharma. 10:07:39

19 Q Okay, and how did you take that news? 10:07:39

20 A Not well. I thought it was frankly 10:07:43  
21 prejudicial to good order, if you will, but I 10:07:47  
22 presented my views of why I didn't think that made 10:07:52  
23 sense and a decision was taken that that's the way 10:07:55  
24 we went, and so you -- you know, you sold your own. 10:07:58

25 Q Okay. Who did you present your ideas on 10:08:01

1 why that wasn't a good idea to? 10:08:04  
2 A Pat, and I do think it came up at a -- it 10:08:06  
3 came up in a forum where I believe, you know, Tony, 10:08:13  
4 Kam, myself and Pat would have been involved. 10:08:19  
5 Q Do you understand -- strike that. Yeah, 10:08:22  
6 do you have any understanding of who made the final 10:08:31  
7 decision to split DSS off? 10:08:32  
8 MR. O'BEIRNE: Form, foundation. 10:08:35  
9 MR. DEMERS: You can answer. 10:08:36  
10 A No one explicitly said by the way, I've 10:08:37  
11 decided. 10:08:43  
12 Q Okay. 10:08:43  
13 A I mean, if you -- if you follow the chain 10:08:43  
14 of command, again, I don't know the operating -- 10:08:46  
15 operating partners or whatever status he was. He's 10:08:48  
16 the CEO at that point, right, so I mean -- 10:08:52  
17 Q Mr. Donnelly? 10:08:58  
18 A No, he was not. No, he was not. No one 10:08:59  
19 said hey, by the way, I'm the final person that 10:09:01  
20 decided. 10:09:04  
21 Q Okay. 10:09:05  
22 A Okay. It was certainly not me. 10:09:05  
23 Q Okay. Was Mr. Donnelly to your knowledge 10:09:07  
24 involved in the due diligence of that deal? 10:09:15  
25 MR. O'BEIRNE: Same. 10:09:17

1                   MR. DEMERS: You can answer.                   10:09:18

2                   A        Other than I guess reviewing work that'd           10:09:21

3                   already been completed. This was not a gigantic --           10:09:24

4                   a gigantic undertaking. It was a -- it was a           10:09:30

5                   typical add-on that we got pretty good at doing.           10:09:32

6                   Q        So you said other than reviewing I guess           10:09:38

7                   work that had already been completed. Are you           10:09:51

8                   saying he did work other than work that had already           10:09:54

9                   been completed or --                                   10:09:56

10                  A        No, I'm saying I led a due diligence           10:09:57

11                  process to acquire what was -- we called the MaGil           10:10:02

12                  IRB and its services that included all three parts.           10:10:05

13                  We -- we presented our case from a business           10:10:09

14                  perspective, this is why it makes sense. We           10:10:12

15                  presented it from a this is an appropriate           10:10:16

16                  valuation from accretive perspective or a value           10:10:19

17                  creation perspective.

18                  We laid out the plan for how it would be           10:10:30

19                  integrated into our entity, and we laid out the           10:10:32

20                  plan of why we felt this was a potential           10:10:35

21                  opportunity to expand our adjacencies. So that           10:10:38

22                  work in my recollection was completely done before           10:10:41

23                  the idea trans -- or presented itself that hey,           10:10:46

24                  it'd be a great idea, just carve this piece off.           10:10:50

25                  So other than -- whenever Pat became involved, he           10:10:54

1 would have been looking at, if I recall, completed 10:10:58  
2 staff work, if you will, that just said okay, 10:11:02  
3 that's the -- that's the -- you know. 10:11:05  
4 Q Okay. 10:11:07  
5 A That's a tight package. 10:11:07  
6 Q But I'm correct that ultimately the 10:11:09  
7 transaction that was completed was not the 10:11:12  
8 transaction that you pitched. Is that fair to say? 10:11:14  
9 A That's --  
10 MR. O'BEIRNE: Form, foundation. 10:11:16  
11 MR. DEMERS: You can answer. 10:11:18  
12 A That's correct. 10:11:18  
13 Q So do you know what if any due diligence 10:11:19  
14 work Mr. Donnelly did related to the ultimate 10:11:23  
15 transaction? 10:11:27  
16 MR. O'BEIRNE: Same. 10:11:27  
17 A I guess no. I mean, I -- I -- I know the 10:11:29  
18 other CEO to my knowledge didn't do it, and there's 10:11:38  
19 like -- here's what -- and my phraseology would be 10:11:41  
20 here -- here's a completed, you know, body of work 10:11:46  
21 that has three entities. We're going to take this 10:11:49  
22 piece and move it over here, and the other piece 10:11:52  
23 will stay there. So other than tick and tie in 10:11:55  
24 the, you know, Johnny goes here and Mary goes over 10:11:59  
25 there, nothing changed from my perspective that I 10:12:04

1 recall from the deal dynamics, meaning the price, 10:12:08  
2 the configuration, the price or anything else. So 10:12:11  
3 if there were due diligence done, it was -- I guess 10:12:15  
4 -- I'm not aware of any. 10:12:20

5 Q Okay. 10:12:22

6 A And no one asked for our work papers or 10:12:27  
7 anything else other than our presentation. 10:12:32

8 Q Did you have any -- a cordial 10:12:34  
9 relationship with Mr. Donnelly, did you -- or was 10:12:52  
10 it contentious? I mean, how would you describe -- 10:12:54  
11 strike that. How would you describe your 10:12:57  
12 relationship with Mr. Donnelly on a personal level? 10:12:59

13 MR. O'BEIRNE: Objection, form, 10:13:02  
14 foundation. 10:13:03

15 MR. DEMERS: You can answer. 10:13:03

16 A Okay. First of all, Pat's a really nice 10:13:04  
17 guy. He's a hard guy not to like, okay? Second 10:13:07  
18 thing is the relationship in my mind is -- is 10:13:11  
19 pretty clear from a business perspective. He's the 10:13:13  
20 CEO and I'm the president that supports that. So 10:13:16  
21 regardless of if -- if I said he was the worst 10:13:19  
22 person I ever met, that doesn't change how the 10:13:23  
23 dynamics of the relationship from a business 10:13:26  
24 perspective go forward, but he was a, you know, 10:13:28  
25 nice guy to work with. 10:13:32

1                   Do we disagree at times on decisions? We           10:13:35  
2 just spent a few minutes talking about one. Okay,           10:13:39  
3 I do -- if I were to characterize anything that           10:13:42  
4 made it a little bit challenging was that I believe           10:13:48  
5 that -- I understand the -- the role that the CEO           10:13:50  
6 plays and the importance that that be supported by           10:13:56  
7 any subordinate senior leader, especially one that           10:14:03  
8 just got in a sense demoted from that position. So           10:14:07  
9 I went out of my way to make sure that there was           10:14:12  
10 nothing that I did that would ever call into           10:14:16  
11 question Mr. Donnelly being the person in charge.           10:14:21  
12                   I think perhaps the different way of           10:14:29  
13 operating is I think to some degree, Pat enjoys a           10:14:32  
14 confrontational type of an approach within a           10:14:40  
15 management team, and so that certainly changed the           10:14:43  
16 dynamics a little bit.   10:14:47  
17                   Q        What do you mean by Mr. Donnelly enjoys a           10:14:49  
18 confrontational type of approach?                           10:14:56  
19                   A        I would describe it, I would say that he           10:14:59  
20 felt maybe that better solutions arise from when           10:15:15  
21 there's tension within the group as opposed to more           10:15:20  
22 of a, you know, collaborative -- I don't know,           10:15:23  
23 collaborative approach. I don't know how to           10:15:33  
24 describe it.   10:15:35  
25                   Q        What kinds of tensions did you feel -- I           10:15:36

1 mean, strike that. What kinds of tensions do you 10:15:41  
2 mean? 10:15:45

3 A Well, it would not be uncommon for us to 10:15:47  
4 have a conversation, then in the middle -- middle 10:15:56  
5 of a group meeting, Pat maybe take a little bit 10:15:59  
6 different divergence in what we were going to do in 10:16:06  
7 a manner that was maybe not -- didn't maybe cast me 10:16:09  
8 in the best light. 10:16:11

9 Now -- and I would describe most of those 10:16:14  
10 as being relatively immaterial decisions. I don't 10:16:16  
11 know that we ever disagreed necessarily on a 10:16:20  
12 material thing, but I guess I always felt there was 10:16:23  
13 a -- there was just another way to approach it I 10:16:28  
14 guess. 10:16:32

15 Q So if I'm understanding, are you saying 10:16:32  
16 essentially you would propose a path or -- 10:16:44

17 A Right. 10:16:47

18 Q -- something, and you would think it was 10:16:47  
19 not material, and Mr. Donnelly would say no, let's 10:16:50  
20 not do it that way, let's do it a different way? 10:16:54  
21 Is that generally what you're saying? 10:16:55

22 MR. DEMERS: Objection to form. You can 10:16:56  
23 answer. 10:16:57

24 MR. O'BEIRNE: Same. 10:16:58

25 A Yeah, it was the way that's done. I 10:16:59

1 mean, it's one -- it's one thing to have a -- to 10:17:05  
2 present it as maybe not a great idea, hey, it's -- 10:17:07  
3 a position is put on the table. It's going to get 10:17:12  
4 tweaked. I have no issue -- in fact, that's why -- 10:17:16  
5 that's what you just do. There's a way to do that 10:17:19  
6 in a manner that I think encourages folks to 10:17:22  
7 contribute, and there's another way to do it where 10:17:27  
8 it dissuades all but the hardest souls to dissuade 10:17:30  
9 -- to present a differing opinion. 10:17:33

10 Q Okay. 10:17:37

11 A Again, it was at -- it was at -- you 10:17:40  
12 know, that's just the -- hey, at the end of the 10:17:42  
13 day, he's the CEO, I'm the president. I have to 10:17:44  
14 adjust to how he operates, but you're going down a 10:17:48  
15 line of, you know, what was the relationship, and I 10:17:52  
16 was being -- I frankly answered your questions, but 10:17:54  
17 those were not -- I don't think anything that was 10:17:57  
18 -- but it was just different, I guess is the way to 10:18:02  
19 describe it. 10:18:05

20 Q What's your understanding of how the 10:18:06  
21 Schulman IRB merger was sourced? 10:18:39

22 MR. O'BEIRNE: Form, foundation. 10:18:42

23 MR. DEMERS: You can answer. 10:18:43

24 A How it was sourced, my -- or at least 10:18:45  
25 what I was told was that a conversation between 10:18:52

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1 Linden, I think specifically Tony Davis, and I 10:18:58  
2 think it was North Lane Partners. 10:19:03  
3 Q Okay. How -- how did you hear that? 10:19:06  
4 A I was told in a meeting. I believe it 10:19:08  
5 was a board meeting. I was a board member. 10:19:15  
6 Q Do you recall who told you that? 10:19:19  
7 A Tony Davis. More over the lines of the 10:19:20  
8 way of hey, guys, you know, I've been approached, 10:19:27  
9 what do you all think, is the way I recall. 10:19:29  
10 Q Okay. And do you recall whether Mr. 10:19:32  
11 Donnelly was present at that meeting? 10:19:34  
12 A I believe it was a board meeting, and so 10:19:36  
13 if that was the case, he would have been present, 10:19:40  
14 so yeah. 10:19:42  
15 Q Okay. 10:19:42  
16 A I doubt that would be a conversation that 10:19:43  
17 would not have occurred. That's a fairly 10:19:44  
18 significant decision. 10:19:49  
19 Q Sure. Do you recall Mr. Donnelly's 10:19:50  
20 position with respect to the Schulman merger? 10:19:53  
21 A I recall him being supportive of that 10:19:57  
22 idea since when you looked at the -- during Linden 10:20:00  
23 diligence on acquiring us, we spent a lot of time 10:20:07  
24 on value creation, one of those components being 10:20:11  
25 what are the M and A opportunities. 10:20:16

1 Q Uh-huh. 10:20:19

2 A Hence my -- probably my commentary 10:20:21

3 earlier on the Drug Safety, but Schulman was -- we 10:20:24

4 were like second and third largest entities that 10:20:29

5 did this. If you view that consolidation was going 10:20:33

6 to occur, which it actually has, that's an 10:20:36

7 opportunity that I think almost anyone would at 10:20:41

8 least pursue. 10:20:44

9 Q So you also supported -- 10:20:46

10 A Oh, absolutely. Yeah, I'd been -- I'd 10:20:50

11 been trying to do it to the extent that, you know, 10:20:52

12 I mean, that's -- we had a -- it was just a logical 10:20:57

13 thing to do. 10:21:03

14 Q What efforts had you undertaken to -- 10:21:04

15 A Well -- 10:21:08

16 MR. DEMERS: Just allow him to -- 10:21:09

17 THE WITNESS: Yeah. 10:21:09

18 MR. DEMERS: -- finish the question so 10:21:10

19 that the -- 10:21:11

20 THE WITNESS: Sorry. 10:21:12

21 MR. DEMERS: -- court reporter can take 10:21:14

22 it down. 10:21:15

23 THE WITNESS: Sorry. 10:21:15

24 BY MR. SANFILIPPO: 10:21:16

25 Q It's quite all right, sir. What I asked 10:21:16

1 was what efforts did you undertake to make that 10:21:18  
2 happen. 10:21:22

3 A Let me -- let me clarify that comment 10:21:22  
4 because actions under -- actions that would have 10:21:28  
5 been undertaken infers there was actual 10:21:31  
6 presentation of a deal or an opportunity. We -- 10:21:38  
7 we, a number of CEOs of IRBs kind of all saw it the 10:21:44  
8 same way, that there was opportunities for 10:21:54  
9 consolidation in that perspective. We -- we, and I 10:21:56  
10 personally had a very high respect for the -- the 10:22:00  
11 Schulman operation. Back to the deal sourcing, as 10:22:05  
12 far as I'm concerned, it came from, you know, the 10:22:19  
13 private equity companies. 10:22:22

14 Q Do you know what if any Mr. Donnelly -- 10:22:26  
15 strike that. Do you know what if any involvement 10:22:36  
16 Mr. Donnelly had in drafting a deal proposal for 10:22:38  
17 that merger? 10:22:44

18 MR. DEMERS: Objection. You can answer. 10:22:46

19 A I have no knowledge of how the -- let's 10:22:47  
20 say the framework was initially created. 10:22:55

21 Q Do you have any knowledge with respect to 10:23:01  
22 Mr. Donnelly's attendance of meetings related to 10:23:03  
23 that transaction? 10:23:08

24 A The only meetings that I'm familiar with 10:23:09  
25 on this topic are as I described before, were some 10:23:12

1 initial, you know, discussions between myself and 10:23:16  
2 the other CEO with -- you know, consult with our 10:23:23  
3 respective parties until there was a -- we had 10:23:27  
4 collectively agreed that there was an opportunity 10:23:31  
5 worth pursuing. I don't -- I know of no 10:23:35  
6 conversations between Mr. Donnelly and any other 10:23:41  
7 entity that wasn't Linden related. 10:23:45

8 Q Okay. As CEO of Chesapeake, did you 10:23:48  
9 attend Monday morning meetings with Linden? 10:23:54

10 MR. O'BEIRNE: Objection, form, 10:23:59  
11 foundation. 10:24:00

12 MR. DEMERS: You can answer. 10:24:00

13 A Okay, if -- if you're referring to the 10:24:01  
14 Monday morning meetings that a typical private 10:24:04  
15 equity company would have, the answer would be no. 10:24:09  
16 We were on a weekly call-in meeting for a period of 10:24:12  
17 time, first couple months. 10:24:16

18 Q First couple months? 10:24:19

19 A Yeah, maybe eight months, so something 10:24:21  
20 like that. 10:24:26

21 Q How long were you the CEO of Chesapeake 10:24:26  
22 while Linden owned the company? 10:24:30

23 A Until they acquired Advarra, so it would 10:24:31  
24 have from -- they acquired us in the -- December 10:24:36  
25 31st of 2015, and I believe the Schulman deal 10:24:39

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1 closed like October-November of maybe '17. I'm not 10:24:52  
2 sure that's right, but -- 10:24:58

3 Q Okay. Was it your understanding that -- 10:24:59  
4 strike that. Do you have an understanding of 10:25:12  
5 whether or not attending the Monday morning 10:25:18  
6 meetings was part of your duties as CEO? 10:25:21

7 MR. O'BEIRNE: Objection, form, 10:25:28  
8 foundation. 10:25:28

9 MR. DEMERS: You can answer. 10:25:29

10 A I -- I don't know that any portfolio 10:25:30  
11 company's CEO attends what I'm calling the typical 10:25:35  
12 firm-wide management of a PE's meetings for -- 10:25:39  
13 unless they're invited to address the group 10:25:45  
14 probably for something that's not going so well. 10:25:48  
15 That would be -- you would have access to a lot of 10:25:53  
16 information that would be private to those 10:25:58  
17 individual holdings, so I'm not aware of any CEO of 10:26:01  
18 a private equity portfolio company participating in 10:26:06  
19 Monday morning meetings. 10:26:12

20 Q Okay. Do you know whether Linden's 10:26:13  
21 operating partners attended the Monday morning 10:26:17  
22 meetings? 10:26:20

23 MR. O'BEIRNE: Same. 10:26:20

24 MR. DEMERS: Objection. You can answer. 10:26:22

25 A I have no firsthand knowledge whether 10:26:23

1 they did or not. I would suspect they did in  
2 probably, you know, a cameo. Like, you know, Pat  
3 might have come in to talk about his portfolio  
4 companies. I doubt they would have been there for  
5 the entire proceedings, but I have no firsthand  
6 knowledge.

7 Q Do you have an understanding of Mr.  
8 Donnelly's involvement with respect to the due  
9 diligence of the Chesapeake-Schulman merger?

10 MR. O'BRIEN: Form, foundation.

11 MB. DEMERS: You can answer.

12           A     Once we got the -- you know, once we had  
13     the decision to move forward, I would say his role  
14     is -- would be as you expected. I primarily led  
15     the operational perspective, meaning when we bring  
16     these two things together, what would be the  
17     synergies, what would be the potential add-ons we  
18     might need, you know, who might be in charge of the  
19     various components of the -- the IRB operation, if  
20     you will, and the -- the financials associated with  
21     that, here's their numbers, here's our numbers,  
22     when we bring these things together, what are the  
23     synergies from a savings perspective, what the  
24     synergies from additional resources needed to  
25     accelerate the expansion of that and the attendant

1 financial implications of the deal moving forward. 10:28:04

2 Your next participant here would have 10:28:09  
3 been the person as CFO to like, you know, make -- 10:28:12  
4 grind through all those details, make sure 10:28:17  
5 everything comes together, and also would have 10:28:20  
6 looked at the corporate functions like, you know, 10:28:22  
7 finance and treasury and all those types of things. 10:28:25

8 Q I apologize, but I'm not sure you 10:28:33  
9 answered my question. 10:28:36

10 A Okay. 10:28:37

11 Q I was asking if you had any knowledge 10:28:37  
12 related to Mr. Donnelly's involvement in the due 10:28:39  
13 diligence process. 10:28:44

14 A Okay. I'm sorry, I'm sorry, that was -- 10:28:45  
15 you're right. That was a nonresponsive question. 10:28:46  
16 Sorry -- or answer. Sorry. 10:28:49

17 Q No problem at all. 10:28:50

18 A Pat would have reviewed the work that I 10:28:52  
19 just described. Obviously -- and you know, he was 10:28:55  
20 -- I would say he was involved in that to a good 10:28:59  
21 degree. 10:29:03

22 MR. DEMERS: We getting close to a good 10:29:04  
23 break point? 10:29:09

24 MR. SANFILIPPO: Yeah, we can break now 10:29:10  
25 if you want, if you want a break sir?

Transcript of Jeffrey Wendel  
Conducted on September 30, 2021

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1                   THE WITNESS: Sure, that's fine.

2                   MR. SANFILIPPO: I don't have much more           10:29:13  
3 honestly.   10:29:15

4                   THE VIDEOGRAPHER: Please stand by. Here           10:29:15  
5 marks the end in Disk Number 1 in the videotaped           10:29:20  
6 deposition of Jeff Wendel. We are off the record           10:29:25  
7 at 10:29 a.m.   10:29:29

8                   (Recessed at 10:29 a.m.)                           10:45:44

9                   (Reconvened at 10:45 a.m.)                           10:45:44

10                  THE VIDEOGRAPHER: Here begins Disk           10:45:52  
11 Number 2 in the videotaped deposition of Jeff           10:45:53  
12 Wendel. We are back on the record at 10:45 a.m.           10:45:56

13 BY MR. SANFILIPPO:   10:46:00

14 Q                Do you know -- strike that. Did you           10:46:00  
15 receive a closing bonus with respect to the sale of           10:46:12  
16 Advarra?   10:46:19

17 A                Oh, a closing bonus. I thought you said           10:46:20  
18 a clothing bonus.   10:46:24

19 Q                Yeah.   10:46:24

20 MR. O'BEIRNE: Obviously you did.                           10:46:26

21 A                Seriously. Yes, I did. Yes, I did.           10:46:27

22 Q                Do you know how that bonus was           10:46:31  
23 negotiated?   10:46:33

24 A                Not precisely. I do know that we           10:46:34  
25 eventually -- you're talking about the closing --           10:46:46

Transcript of Jeffrey Wendel  
Conducted on September 30, 2021

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1 I'm sorry, the closing of Advarra's sale to 10:46:50  
2 Genstar? 10:46:54  
3 Q Correct. 10:46:55  
4 A I don't think there was a closing bonus. 10:46:55  
5 Q Okay. 10:47:03  
6 A I don't recall one. 10:47:03  
7 Q So you don't -- you don't recall 10:47:04  
8 receiving anything -- a success fee or anything 10:47:06  
9 like that? 10:47:08  
10 A I don't -- I mean, it sounds dumb, but I 10:47:09  
11 don't -- I don't recall having a -- I believe -- or 10:47:14  
12 I recall my compensation was related to the -- 10:47:20  
13 let's say the proceeds from the -- from the sale. 10:47:24  
14 No additional. 10:47:27  
15 Q Okay. Do you -- did you receive a 10:47:30  
16 closing fee or bonus upon the merger of Chesapeake 10:47:34  
17 and Schulman? 10:47:40  
18 A Yes. 10:47:41  
19 Q Okay, and do you know how that was 10:47:48  
20 negotiated? 10:47:50  
21 A I initially proposed a -- that a certain 10:47:50  
22 group be provided transaction bonus, if you will, 10:48:01  
23 and we came up with a number. I'm assuming -- I 10:48:07  
24 would say I presented a number or a proposal, and 10:48:11  
25 it came back to me as here's the number, you 10:48:18

1 allocate it. The conduit for getting that piece of 10:48:22  
2 information was Mr. Donnelly -- 10:48:26

3 Q Okay. 10:48:28

4 A -- again, in accordance with the chain of 10:48:29  
5 command. 10:48:31

6 Q Okay. In conjunction with the sale of 10:48:32  
7 Advarra, do you know if Mr. Donnelly ever advocated 10:48:34  
8 for you to receive a closing bonus? 10:48:38

9 MR. O'BEIRNE: Form, foundation. 10:48:41

10 MR. DEMERS: You can answer. 10:48:43

11 A No. 10:48:44

12 Q Do you know whether Linden itself paid 10:48:51  
13 anything -- any funds to acquire Schulman? 10:49:11

14 MR. O'BEIRNE: Form, foundation. 10:49:16

15 MR. DEMERS: You can answer. 10:49:17

16 A I'm not sure I understand the question. 10:49:20  
17 You're asking me did Linden pay any funds -- 10:49:22

18 Q Yeah, let me rephrase the question. 10:49:26

19 A Okay, I just want -- 10:49:28

20 Q Do you know if Linden took any of the 10:49:29  
21 capital of the fund and used it to acquire 10:49:32  
22 Schulman? 10:49:37

23 MR. O'BEIRNE: Same. 10:49:38

24 MR. DEMERS: You can answer. 10:49:39

25 A So let me state the question in my words 10:49:40

1 and we can go from there. I think you're asking me 10:49:44  
2 as opposed to financing it with debt, did Linden 10:49:48  
3 contribute equity and/or debt to consummate the 10:49:52  
4 transaction. Is that -- is that the question? 10:49:58

5 Q Well, I mean, when you say contribute 10:49:59  
6 equity, what do you mean by that? 10:50:02

7 MR. O'BEIRNE: Form, foundation. 10:50:06

8 MR. DEMERS: You can answer. 10:50:07

9 A So to me, there's -- there would be two 10:50:07  
10 sources of -- typically of a deal. One would be, 10:50:11  
11 you know, much like your home mortgage, I'm going 10:50:19  
12 to put so much of my cash down, and the rest is 10:50:22  
13 going to be financed from typically a -- you know, 10:50:26  
14 a prime and mezzanine subordinate debt. 10:50:29

15 Q Right. 10:50:32

16 A So if you're asking me did Linden put 10:50:33  
17 money down on their mortgage, I don't recall. 10:50:37

18 Q Did you -- did you ever discuss the term 10:50:42  
19 or the definition of the term "equity investment" 10:50:55  
20 with people who were employees of Linden? 10:50:59

21 MR. O'BEIRNE: Objection. 10:51:02

22 MR. DEMERS: Objection. 10:51:03

23 MR. O'BEIRNE: Yeah, objection, form, 10:51:04  
24 foundation, legal conclusion. 10:51:05

25 MR. DEMERS: You can answer. 10:51:07

1                   THE WITNESS: Did I discuss the term           10:51:10  
2 "equity investment."   10:51:11  
3 BY MR. SANFILIPPO:   10:51:12  
4 Q        Let me strike that question and --                   10:51:12  
5 A        Okay.   10:51:14  
6 Q        Just to be clear, did you ever discuss a           10:51:14  
7 definition of the term "equity investment" with           10:51:16  
8 employees of Linden?   10:51:18  
9                   MR. O'BEIRNE: Same.                               10:51:21  
10          MR. DEMERS: Same objection. You can               10:51:22  
11 answer.   10:51:24  
12 A        I guess not, no. Not that I recall.               10:51:24  
13 Q        Okay. Do you know at the end of the               10:51:28  
14 Schulman-Chesapeake merger -- strike that. Do you       10:52:02  
15 know whether at the end of the Chesapeake-Schulman       10:52:07  
16 merger, Linden owned any of the Chesapeake?               10:52:15  
17                   MR. O'BEIRNE: Form, foundation.               10:52:20  
18                   MR. DEMERS: You can answer.                   10:52:21  
19 A        Assuming ownership is equity, it's my               10:52:22  
20 belief that they -- belief and recollection that       10:52:36  
21 they owned equity in the -- the result of the       10:52:40  
22 Schulman and Chesapeake merger to create Advarra.    10:52:44  
23 Q        Okay. How many private equity firms have       10:52:49  
24 you worked with total?                                       10:52:57  
25 A        Three.   10:53:00

1 Q Okay. So when I say to you make an 10:53:03  
2 equity investment, a private equity firm makes an 10:53:10  
3 equity investment, what does that mean to you? 10:53:15  
4 MR. O'BEIRNE: Form, foundation. 10:53:17  
5 MR. DEMERS: You can answer. 10:53:18  
6 A Well, so to me, the term "equity" would 10:53:19  
7 probably come to play in two ways as a person. One 10:53:27  
8 would be I'd make an equity investment or a 10:53:31  
9 commitment to a fund, so I would invest in, you 10:53:35  
10 know, fund 7 of private equity company X. I am not 10:53:38  
11 aware of any vehicle for an individual investor to 10:53:45  
12 make an equity -- or at least not that's been 10:53:50  
13 afforded to me, to make a partnership-like equity 10:53:54  
14 investment. 10:54:00  
15 As far as it relates to a deal, my 10:54:01  
16 understanding of the term "equity" is that at least 10:54:03  
17 in my experience, the deals have either had two 10:54:09  
18 components, an equity and a debt component, or 10:54:13  
19 perhaps I guess potentially a total equity. In 10:54:19  
20 other words, I buy -- we merge together and I give 10:54:23  
21 you -- all of your proceeds are in equity, or we 10:54:27  
22 decide the other spectrum would be I give all of 10:54:32  
23 your proceeds in cash. I have typically seen 10:54:35  
24 things that have been a combination of equity and 10:54:40  
25 debt to finance the transaction. I'm not sure 10:54:44

1 that's the question you're asking. 10:54:48

2 Q Is it your understanding that equity 10:54:51

3 investment refers to the source of the funds or the 10:54:53

4 use of the funds or both? 10:54:58

5 MR. O'BEIRNE: Objection. 10:55:01

6 MR. DEMERS: Objection. 10:55:01

7 MR. O'BEIRNE: Leading and compound. 10:55:02

8 MR. DEMERS: You can answer. 10:55:04

9 A Okay, I'm obviously, you know, missing a 10:55:05

10 key point here, but to me, equity is ownership in 10:55:08

11 an organization. Any other thing, debt, is a -- 10:55:12

12 you know, a note against the -- the potential 10:55:19

13 equity of a -- of an organization. So do I know -- 10:55:21

14 do I believe that equity is involved in 10:55:25

15 transactions? My answer would be yes. 10:55:30

16 Q Are the terms "equity" and "ownership" 10:55:34

17 synonymous? 10:55:47

18 MR. O'BEIRNE: Same. 10:55:49

19 MR. DEMERS: Objection. You can answer. 10:55:49

20 A Equity would be -- your percentage of 10:55:50

21 equity, if you owned ten percent of the equity, you 10:56:03

22 would own ten percent of the company, much like if 10:56:06

23 I own one share of IBM, I own one ten billionth of 10:56:10

24 the equity of IBM. 10:56:17

25 Q I'm going to propose a definition for the 10:56:19

1 term "equity investment." I want to see if you  
2 agree with it, disagree with it, how you feel about  
3 it.

10:56:48

10:56:51

10:56:54

4 A Okay.

10:56:54

5 Q Equity investment is using capital to  
6 take an ownership position for the purpose of  
7 generating a return.

10:56:55

10:57:00

10:57:04

8 MR. O'BEIRNE: Hold on. Objection,  
9 incomplete hypothetical, and to the extent it calls  
10 for a legal --

10:57:06

10:57:07

10:57:10

11 MR. SANFILIPPO: My question's --

10:57:10

12 MR. O'BEIRNE: It was not --

10:57:10

13 MR. SANFILIPPO: No, I --

14 MR. O'BEIRNE: Okay.

15 BY MR. SANFILIPPO:

16 Q Do you agree with that definition? Now  
17 you can make your record.

10:57:16

10:57:18

18 MR. O'BEIRNE: Sorry, that's what you  
19 asked at the beginning, so I thought you were done.  
20 Incomplete hypothetical and to the extent it calls  
21 for a legal conclusion.

10:57:19

10:57:21

10:57:23

22 MR. DEMERS: Same objection. You can  
23 answer.

10:57:24

10:57:25

24 THE WITNESS: Can you restate your  
25 definition of equity?

10:57:27

10:57:28

1                   MR. SANFILIPPO: Will the reporter please           10:57:30  
2 read the question back to the witness?                                   10:57:32  
3                   THE REPORTER: Question: "Equity                   10:57:48  
4 investment is using capital to take an ownership  
5 position for the purpose of generating a return."  
6                   MR. O'BEIRNE: Same.                                   10:57:50  
7                   MR. DEMERS: Same. You can answer.                   10:57:51  
8                   THE WITNESS: I would agree with that           10:57:55  
9 statement.   10:57:58  
10 BY MR. SANFILIPPO:   10:57:59  
11                   Q When a private -- strike that. If a           10:57:59  
12 private equity company were to say to you "capital   10:58:26  
13 invested," what would you take that term to mean?           10:58:35  
14                   MR. O'BEIRNE: Object. Sorry, you go           10:58:40  
15 first.   10:58:42  
16                   MR. DEMERS: Objection to form.                   10:58:43  
17                   MR. O'BEIRNE: Yeah, incomplete                   10:58:45  
18 hypothetical, calls for speculation.                           10:58:46  
19                   MR. DEMERS: You can answer.                           10:58:48  
20                   MR. SANFILIPPO: I would object to the           10:58:49  
21 speaking objection. Incomplete hypothetical is a   10:58:51  
22 form objection.   10:58:52  
23                   MR. DEMERS: You can answer.                           10:58:53  
24                   THE WITNESS: Okay, I'm sorry, I need to           10:58:54  
25 ask you to repeat the question.                                   10:58:56

1                   MR. O'BEIRNE: Before you do, to the           10:58:58  
2 extent that you're asking questions that are           10:59:00  
3 objectionable on multiple bases, I'm trying to help           10:59:01  
4 by providing more specifics on the basis of my           10:59:05  
5 objection so that you can fix the question.           10:59:07

6                   MR. SANFILIPPO: I would ask that you           10:59:08  
7 make a form objection. If I would like to clarify           10:59:09  
8 what your form objection is, I will ask.           10:59:11

9                   MR. O'BEIRNE: Okay, I'm going to           10:59:14  
10 continue making them as I see proper, but I           10:59:15  
11 understand what you're saying. I just wanted to           10:59:18  
12 explain what I was doing.           10:59:18

13                  MR. SANFILIPPO: Okay, well, I continue           10:59:19  
14 to note my objection your speaking objections.           10:59:20  
15 Will the court reporter please read the question           10:59:24  
16 back to the witness?           10:59:25

17                  THE REPORTER: Question: "If a private           10:59:39  
18 equity company were to say to you 'capital           10:59:40  
19 invested,' what would you take that term to mean?"

20                  MR. O'BEIRNE: Same.           10:59:40

21                  MR. DEMERS: Same. You can answer.           10:59:40

22                  THE WITNESS: Okay, I would mean that           10:59:42  
23 they took their capital to, for lack of a better           10:59:44  
24 term, acquire equity in an entity that they are           10:59:50  
25 typically purchasing, and that is -- my commentary           10:59:55

1	earlier would have said that there is also	11:00:02
2	potentially a debt component to finance that sale.	11:00:06
3	In my mind, I'm crystal clear the difference	11:00:11
4	between equity and debt. Equity -- taking capital	11:00:14
5	to provide -- to purchase a component of the equity	11:00:18
6	in my view is money devoted to purchase ownership	11:00:24
7	in that entity.	11:00:30
8	BY MR. SANFILIPPO:	11:00:33
9	Q Okay, was there -- was there anything	11:00:33
10	about my question that you didn't understand?	11:00:36
11	A Well, I guess I would characterize it as	11:00:38
12	what I think is a pretty simple topic. We kind of	11:00:45
13	-- I don't know that my answer has changed in	11:00:53
14	regards to how the question has been phrased, so	11:00:55
15	I'm just perplexed by that, but that's --	11:00:59
16	Q Do these seam like very basic concepts to	11:01:02
17	you?	11:01:06
18	A Yeah.	11:01:06
19	Q Are these terms commonly used in your	11:01:06
20	experience in the private equity world?	11:01:20
21	MR. O'BEIRNE: Form, foundation.	11:01:22
22	MR. DEMERS: Objection. You can answer.	11:01:23
23	A I'm not sure I have direct knowledge of	11:01:25
24	that, but I've experienced that type of discussion.	11:01:32
25	O Have you ever known these terms to mean	11:01:39

1 anything other than what you've described here 11:01:41  
2 today? 11:01:43  
3 MR. O'BEIRNE: Same. 11:01:44  
4 MR. DEMERS: Same objection. You can 11:01:44  
5 answer. 11:01:46  
6 A No. 11:01:46  
7 Q After Mr. Donnelly became CEO of Advarra, 11:01:50  
8 do you know if Linden continued to refer to him as 11:02:20  
9 an operating partner? 11:02:23  
10 MR. O'BEIRNE: Same. 11:02:26  
11 MR. DEMERS: Objection. You can answer. 11:02:26  
12 A I do not know. 11:02:27  
13 Q Have you ever seen Mr. Donnelly listed on 11:02:28  
14 Linden's web site? 11:02:41  
15 A Yes. 11:02:45  
16 Q Okay. Do you know how he was listed on 11:02:45  
17 Linden's web site? 11:02:49  
18 MR. DEMERS: Objection. 11:02:50  
19 MR. O'BEIRNE: Yeah, form, foundation. 11:02:51  
20 MR. DEMERS: You can answer. 11:02:54  
21 A At one point he was listed as an 11:02:54  
22 operating partner. 11:02:56  
23 Q Do you know when he stopped being listed 11:02:57  
24 as an operator partner on Linden's web site? 11:02:58  
25 MR. O'BEIRNE: Same. 11:03:03

1                   MR. DEMERS: Same objection. You can           11:03:03  
2 answer.   11:03:04  
3                   A    No, I do not.                                   11:03:04  
4                   Q    When did Linden -- strike that. When           11:03:05  
5 did the idea to first sell Advarra to Genstar or           11:03:38  
6 anyone come about?   11:03:41  
7                   MR. O'BEIRNE: Form, foundation.               11:03:43  
8                   MR. DEMERS: Objection. You can answer.       11:03:44  
9                   A    So I would say with a typical private           11:03:47  
10 equity hold, you get to a point in the hold -- in           11:03:52  
11 the hold period when you evaluate the market,           11:03:55  
12 evaluate the performance of the individual entity,       11:04:01  
13 evaluate potential demand, and then sometimes           11:04:06  
14 there's a -- what I'll call fund dynamics that come       11:04:08  
15 into play as well, but from a -- from a practical       11:04:12  
16 perspective, I think at least the way I've           11:04:15  
17 approached it as when you're in a private equity       11:04:18  
18 ownership, from day one, you're in a sense           11:04:22  
19 considered -- preparing, considering, evaluating a       11:04:25  
20 potential sale down the road. There's no           11:04:28  
21 expectation that a private equity firm is going to       11:04:34  
22 hold you in perpetuity, and so that's -- so it's --       11:04:36  
23 it's a constant process.   11:04:41  
24                   Q    Okay. Do you know when sort of the sale       11:04:43  
25 of Advarra went from theoretical to something that       11:04:54

1 was actually being considered? 11:04:57

2 MR. O'BEIRNE: Form, foundation. 11:04:58

3 MR. DEMERS: Objection. You can answer. 11:04:58

4 A Well, they were -- it was discussed at 11:05:01

5 board meetings, but I think we -- I would say we 11:05:04

6 got serious with it in the early part of -- maybe 11:05:07

7 the late part of '18 or the early part of '19, 11:05:17

8 given that the close was in July of '19. 11:05:20

9 Q How did you first hear about that? 11:05:23

10 A Well, it was an ongoing -- as I 11:05:39

11 mentioned, in a board perspective, it was an 11:05:42

12 ongoing discussion, and then at whenever it was we 11:05:44

13 decided, we say hey, we're going to start a 11:05:47

14 process. 11:05:50

15 Q What was Mr. Donnelly's role in that? 11:05:51

16 A Well, he played the -- the role you would 11:05:55

17 expect of a CEO. 11:05:59

18 Q Okay. What role was that? 11:06:01

19 A Well, again, he would be part of the team 11:06:04

20 that would help the board evaluate, you know, 11:06:10

21 whether this was the right time, assuming that 11:06:16

22 those inputs are -- you know, sometimes I guess 11:06:19

23 it's a tell. That's not been my experience, but -- 11:06:21

24 and then would, you know, oversee the preparation 11:06:24

25 of the entity for sale, which again, as I 11:06:28

1 mentioned, is something that we routinely have done 11:06:31  
2 since I've been in the organization on an ongoing 11:06:35  
3 basis. 11:06:37

4 Q Do you know if Mr. Donnelly attended 11:06:38  
5 Monday morning meetings with respect to the sale of 11:06:41  
6 Advarra? 11:06:44

7 A No, I do not. 11:06:45

8 MR. O'BEIRNE: Form, foundation. 11:06:48

9 BY MR. SANFILIPPO: 11:06:49

10 Q Would you expect Mr. Donnelly to have 11:06:49  
11 attended Monday morning meetings with respect to 11:06:52  
12 the sale of Advarra? 11:06:54

13 MR. DEMERS: Objection. You can answer. 11:06:56

14 A I don't know that I have any basis for -- 11:06:57  
15 I certainly have no firsthand knowledge of whether 11:07:00  
16 a company that's -- a portfolio company that's 11:07:04  
17 typically thinking about this, whether that CEO 11:07:07  
18 presents to the Monday morning meeting. 11:07:10

19 MR. O'BEIRNE: That's a sound I haven't 11:07:31  
20 heard in a while. 11:07:34

21 THE WITNESS: Yeah, I was going to say, 11:07:34  
22 it's like from the back in the rack there. I 11:07:35  
23 thought I might be the only guy in the room that 11:07:36  
24 even knew what that even was. 11:07:40

25 BY MR. SANFILIPPO: 11:07:40

1 Q No way. Do you know if -- in your 11:07:41  
2 opinion, did Mr. Donnelly do any work with respect 11:07:50  
3 to the sale of Advarra that was atypical for 11:07:56  
4 someone who was solely the CEO of a company? 11:08:00  
5 MR. DEMERS: Objection to form. 11:08:04  
6 MR. O'BEIRNE: Yeah, and foundation. 11:08:05  
7 MR. DEMERS: You can answer. 11:08:06  
8 A I'm not -- I'm not aware of any. 11:08:08  
9 Q Would you be surprised to find out that 11:08:14  
10 Mr. Donnelly did advocate for you receiving a 11:08:45  
11 closing fee for the sale of Advarra? 11:08:49  
12 MR. O'BEIRNE: Same. 11:08:52  
13 MR. DEMERS: Objection to form. You can 11:08:52  
14 answer. 11:08:53  
15 A No, I guess I wouldn't be surprised. I 11:08:54  
16 wouldn't be surprised on the yay or the nay of that 11:09:01  
17 question. 11:09:04  
18 Q Sir, I'm almost done I think. I just 11:09:05  
19 need to ask you a few basic questions here. Do you 11:09:28  
20 have any knowledge related to ProPharma Group's 11:09:31  
21 acquisition of Xendo? 11:09:34  
22 A No. 11:09:35  
23 Q Do you have any knowledge with respect to 11:09:36  
24 ProPharma Group's acquisition of Sofus? 11:09:38  
25 A No. 11:09:40

1 Q Do you have any knowledge with respect to 11:09:41  
2 ProPharma Group's acquisition of Solutions in 11:09:42  
3 Health? 11:09:45  
4 A No. 11:09:46  
5 Q Okay. Are there any questions I didn't 11:09:47  
6 ask that you thought I would ask you today? 11:10:02  
7 MR. DEMERS: Objection. 11:10:06  
8 MR. O'BEIRNE: Yeah, objection. 11:10:06  
9 MR. DEMERS: I'm not sure the witness can 11:10:13  
10 answer -- 11:10:15  
11 MR. O'BEIRNE: Yeah, I might direct him 11:10:15  
12 not to answer that one. 11:10:17  
13 THE WITNESS: Yeah, I'm going to -- 11:10:18  
14 BY MR. SANFILIPPO: 11:10:19  
15 Q Is there anything that we haven't 11:10:19  
16 discussed that you thought might be relevant to our 11:10:22  
17 discussion? 11:10:24  
18 MR. O'BEIRNE: Same. 11:10:25  
19 MR. DEMERS: Objection, asking the 11:10:26  
20 witness to try to determine what's relevant and 11:10:28  
21 what's not. 11:10:30  
22 MR. SANFILIPPO: Are you instructing him 11:10:31  
23 not to answer or are you just -- I mean, okay, your 11:10:32  
24 objections are made for the record. 11:10:34  
25 MR. DEMERS: Well, look, I don't think 11:10:39

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1 this question was part of the noticed deposition 11:10:40  
2 topics. 11:10:43

3 MR. SANFILIPPO: So you're instructing 11:10:44  
4 him not to answer? I just want a record on this 11:10:45  
5 one way or the other.

6 MR. O'BEIRNE: I'd caution him not to 11:10:47  
7 reveal any privileged communications. 11:10:50

8 MR. DEMERS: Certainly.

9 MR. O'BEIRNE: And remind you're not 11:10:51  
10 required to speculate as that what counsel might 11:10:52  
11 have asked you. 11:10:55

12 MR. DEMERS: So I'll instruct the witness 11:10:55  
13 not to tread into any attorney-client privileged 11:10:58  
14 communications. He has an answer to the question, 11:11:02  
15 he can answer it. If not, I think we're done. 11:11:04

16 THE WITNESS: Okay, can we restate or 11:11:07  
17 replay the question please? 11:11:09

18 THE REPORTER: Question: "Is there 11:11:20  
19 anything that we haven't discussed that you thought  
20 might be relevant to our discussion?"

21 MR. O'BEIRNE: Same. 11:11:21

22 MR. DEMERS: Same instruction. You can 11:11:23  
23 answer if you can. 11:11:24

24 THE WITNESS: No. 11:11:26

25 MR. SANFILIPPO: Okay, great, thank you, 11:11:27

1 Mr. Wendel. I really appreciate your time today. 11:11:29  
2 MR. O'BEIRNE: Mr. Wendel, I actually 11:11:32  
3 have a couple follow-up questions based on what -- 11:11:33  
4 THE WITNESS: Oh, sorry, sorry. 11:11:35  
5 MR. SANFILIPPO: Mr. O'Beirne's going to 11:11:36  
6 ask you a couple questions. 11:11:37  
7 THE WITNESS: Okay. 11:11:38  
8 MR. SANFILIPPO: I may have some 11:11:38  
9 follow-up questions based on what he asks you. 11:11:39  
10 THE WITNESS: Okay. 11:11:40  
11 MR. SANFILIPPO: Appreciate it. 11:11:41  
12 EXAMINATION BY COUNSEL FOR THE DEFENDANTS  
13 BY MR. O'BEIRNE: 11:11:42  
14 Q Having come back previously from a break, 11:11:42  
15 are we okay to continue or do -- 11:11:46  
16 A Yeah, no, we're okay to go. 11:11:46  
17 Q Great. 11:11:48  
18 A I just got to look in a different 11:11:49  
19 direction. 11:11:52  
20 Q That's right, I'm over here. Mr. Wendel, 11:11:52  
21 I just -- you were asked some questions by Mr. 11:11:56  
22 SanFilippo this morning. On a couple of topics. I 11:11:57  
23 just wanted to ask you a couple of follow-up 11:11:59  
24 questions on those, but first, don't hold it 11:12:01  
25 against me. I'm a former Army guy. 11:12:03

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1 A Okay. 11:12:05  
2 Q But my grandparents retired to Hanover 11:12:05  
3 Street just off the back eight by the chapel, so we  
4 used to run around --  
5 A Oh, wow.  
6 Q -- the obstacle course as kids.  
7 A Oh, wow.  
8 Q Till the chief petty officer yelled at  
9 us. 11:12:16  
10 MR. SANFILIPPO: Objection, form. 11:12:16  
11 BY MR. O'BEIRNE: 11:12:17  
12 Q There's no question. You were asked some 11:12:17  
13 questions about the merger of Chesapeake and 11:12:22  
14 Schulman. I wanted to direct your attention back 11:12:27  
15 to that. 11:12:29  
16 A Okay. 11:12:29  
17 Q I understood your testimony to be at that 11:12:30  
18 time that there were a handful of IRB companies, 11:12:34  
19 and that one of them that was known to Chesapeake 11:12:37  
20 was Schulman. Is that accurate? 11:12:39  
21 A That's right. 11:12:41  
22 MR. SANFILIPPO: Objection, form. 11:12:42  
23 BY MR. O'BEIRNE: 11:12:44  
24 Q Would you use the term "source" to 11:12:44  
25 describe how you became aware of the existence of 11:12:46

1 Schulman? 11:12:49

2 MR. SANFILIPPO: Objection, form. 11:12:50

3 MR. DEMERS: Same objection. You can 11:12:51

4 answer. 11:12:53

5 A Well, how I became aware of it, I 11:12:54

6 probably became aware of that when I first agreed 11:12:57

7 to join Chesapeake IRB with the premise of, as I 11:12:59

8 said earlier, installing an enterprise system that 11:13:05

9 would give us sort of a force multiplier advantage, 11:13:10

10 if you will, consider mergers and acquisitions that 11:13:13

11 would grow the company to create value, and 11:13:16

12 eventually sell the company. So part of the -- my 11:13:19

13 due diligence of deciding to join was were there -- 11:13:24

14 you know, did the organization have the wherewithal 11:13:28

15 to do it, were there opportunities through a merger 11:13:31

16 and acquire. 11:13:34

17 Q What knowledge about the existence of 11:13:35

18 Schulman did you need from Mr. Donnelly prior to 11:13:39

19 contemplating whether it made sense for Chesapeake 11:13:42

20 to do? 11:13:45

21 MR. SANFILIPPO: Objection, form. 11:13:46

22 MR. DEMERS: Same objection. You can 11:13:47

23 answer. 11:13:48

24 A I don't think that I needed any 11:13:48

25 information. 11:13:51

1 Q Mr. Donnelly was the chairman of the 11:13:52  
2 board of Chesapeake starting after Linden's 11:13:59  
3 acquisition, correct? 11:14:02  
4 A That's what I recall, yes. 11:14:05  
5 Q Do you have an understanding as to 11:14:06  
6 whether he was compensated by Chesapeake for his 11:14:08  
7 role as chairman? 11:14:12  
8 MR. SANFILIPPO: Objection, form. 11:14:13  
9 MR. DEMERS: You can answer. 11:14:15  
10 A I should know that answer. I don't 11:14:15  
11 recall. I recall that he was compensated. I would 11:14:23  
12 guess that came out of our pocket, but I'm not 11:14:31  
13 sure. 11:14:34  
14 Q Setting aside where it was coming from, 11:14:35  
15 was it was your understanding that the members of 11:14:37  
16 the board, to include a chairman, that the chairman 11:14:39  
17 had some sort of baseline compensation? 11:14:43  
18 A Yes. 11:14:44  
19 MR. SANFILIPPO: Objection, form. 11:14:44  
20 A Yes, they did. They did. Sorry. 11:14:45  
21 Q No, you're fine. And then at what point 11:14:47  
22 did he cease becoming the chairman -- strike that. 11:14:50  
23 At what point did his role change when he no longer 11:14:54  
24 became the chairman? 11:14:57  
25 MR. SANFILIPPO: Objection, form. 11:14:58

1 BY MR. O'BEIRNE: 11:14:59

2 Q I just said "became" again. I don't know 11:15:00

3 why. When did he stop being chairman of the board 11:15:02

4 of Chesapeake? 11:15:04

5 MR. SANFILIPPO: Objection, form, 11:15:05

6 foundation. 11:15:05

7 MR. DEMERS: You can answer. 11:15:06

8 A I'm not sure I recall the exact date. 11:15:07

9 Sorry. 11:15:13

10 Q Around the same time he became CEO? 11:15:13

11 MR. SANFILIPPO: Objection, form. 11:15:16

12 MR. DEMERS: You can answer. 11:15:18

13 A I believe that to be the case. 11:15:18

14 Q Was to your knowledge Mr. Donnelly ever 11:15:22

15 both the chairman and the CEO of the new entity, 11:15:25

16 Advarra? 11:15:28

17 MR. SANFILIPPO: Objection, foundation. 11:15:29

18 MR. DEMERS: You can answer. 11:15:30

19 A I do not think he was ever -- served in 11:15:31

20 both roles simultaneously. 11:15:34

21 Q And in your recollection, who became the 11:15:35

22 chairman of the board of Advarra after Mr. Donnelly 11:15:37

23 was no longer the chairman? 11:15:40

24 MR. SANFILIPPO: Objection, form, 11:15:41

25 foundation. 11:15:42

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1                   MR. DEMERS: You can answer.                   11:15:43  
2                   A     It's my recollection that Tony Davis           11:15:43  
3                   became the chairman of the board.                   11:15:46  
4                   Q     Do you have an understanding of the           11:15:48  
5                   extent to which Mr. Donnelly kept chairman shares   11:15:51  
6                   in Advarra through 2019 through the sale of the   11:15:55  
7                   company?   11:15:59  
8                   MR. SANFILIPPO: Objection, foundation.           11:15:59  
9                   MR. DEMERS: Same objection. You can           11:16:01  
10                  answer.   11:16:02  
11                  A     I don't have direct knowledge of that.   11:16:02  
12                  Q     Do you recall a discussion about allowing   11:16:11  
13                  Mr. Donnelly to keep shares in Advarra that were   11:16:15  
14                  associated with his chairman role even after he no   11:16:20  
15                  longer was performing that job?                   11:16:22  
16                  MR. SANFILIPPO: Objection, form,                11:16:24  
17                  foundation.                                   11:16:25  
18                  MR. DEMERS: Same objection. You can           11:16:26  
19                  answer.   11:16:27  
20                  A     I don't have any knowledge of                11:16:27  
21                  discussions. I'll leave it -- leave it there.   11:16:33  
22                  Q     Okay. Do you have an understanding of --   11:16:39  
23                  at the time Advarra was sold to Genstar, do you   11:16:46  
24                  have an understanding of what percentage of Mr.   11:16:48  
25                  Donnelly's shares that he owned at the time were   11:16:51

1 related to his chairman prior role? 11:16:53

2 MR. SANFILIPPO: Objection, form, 11:16:57

3 foundation. 11:16:58

4 MR. DEMERS: Same objection. You can 11:16:59

5 answer. 11:17:00

6 A At the time of the transaction, I was not 11:17:00

7 privy to the cap table with the exception of my own 11:17:06

8 component. 11:17:09

9 Q Okay. You talked about some -- the 11:17:12

10 prospects of growth and add-on transactions being 11:17:18

11 discussed from the time you were at Chesapeake. 11:17:21

12 You recall that? 11:17:24

13 A Right. 11:17:25

14 MR. SANFILIPPO: Objection, form. 11:17:25

15 BY MR. O'BEIRNE: 11:17:26

16 Q Just trying to orient you to the topic. 11:17:27

17 I'm not -- 11:17:29

18 A Right. 11:17:30

19 Q -- meaning to get testimony, so -- 11:17:30

20 MR. SANFILIPPO: Objection, form. 11:17:32

21 BY MR. O'BEIRNE: 11:17:33

22 Q The Quorum transaction -- do you recall 11:17:34

23 the details of that? 11:17:38

24 A Yes. 11:17:39

25 Q All right. From your perspective, was 11:17:40

1 the quorum transaction a good idea? 11:17:42  
2 A Yes. 11:17:45  
3 MR. SANFILIPPO: Objection to the form. 11:17:45  
4 MR. DEMERS: Objection. 11:17:46  
5 THE WITNESS: Sorry. 11:17:47  
6 MR. DEMERS: You can answer. 11:17:48  
7 THE WITNESS: Yes. 11:17:49  
8 BY MR. O'BEIRNE: 11:17:50  
9 Q Could you elaborate, why was the quorum 11:17:50  
10 transaction a good idea? 11:17:53  
11 A Well, it would have, among other -- 11:17:54  
12 financials aside, which were quite favorable, it 11:18:00  
13 gave us a diversity both geographically. It was an 11:18:04  
14 addition of another very highly respected 11:18:10  
15 institutional review board. It also had a small 11:18:13  
16 consulting arm that again had some potential growth 11:18:18  
17 opportunities. 11:18:23  
18 There was opportunities for significant 11:18:26  
19 synergies or redeployment of -- of assets. They 11:18:35  
20 had a very nice, from an -- from an IRB 11:18:39  
21 perspective, meaning vis-a-vis the competition, a 11:18:45  
22 very nice marketing skill set that would have 11:18:48  
23 precluded us from having to go buy all of our 11:18:57  
24 services essentially. We had some in-house 11:19:00  
25 marketing expertise, and it gave us the -- some 11:19:03

1 additional sales staff that we thought would be 11:19:08  
2 helpful moving us forward. 11:19:11  
  
3 Q Do you have an opinion as to whether or 11:19:12  
4 not the acquisition of Quorum positively 11:19:14  
5 contributed to the eventual sale price of Advarra? 11:19:19  
  
6 MR. SANFILIPPO: Objection, form, 11:19:21  
7 foundation. 11:19:22  
  
8 MR. DEMERS: You can answer. 11:19:23  
  
9 A I would say I have direct knowledge that 11:19:23  
10 the acquisition of Quorum was highly positive in 11:19:27  
11 the financial transaction eventually with Genstar. 11:19:33  
  
12 Q What would be your assessment of -- of -- 11:19:37  
13 in numbers, how positive? 11:19:39  
  
14 MR. SANFILIPPO: Objection, form. 11:19:41  
  
15 MR. DEMERS: You can answer. 11:19:42  
  
16 A If I had to put a number on it, it'd be 11:19:42  
17 200 million plus or -- meaning -- yeah, 200 11:19:47  
18 million. 11:19:51  
  
19 Q So it's your opinion that the acquisition 11:19:51  
20 of the Quorum -- strike that. It's your opinion 11:19:53  
21 that the acquisition of Quorum contributed \$200 11:19:56  
22 million to the eventual sale value of Advarra. 11:19:59  
  
23 A That's -- 11:20:02  
  
24 MR. SANFILIPPO: Objection, form. 11:20:03  
  
25 A Absolutely, so I would -- I would 11:20:05

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1 describe it as a material event. 11:20:06  
2 Q Was Mr. Donnelly in favor of the Quorum 11:20:08  
3 acquisition or opposed to it? 11:20:10  
4 MR. SANFILIPPO: Objection, form. 11:20:11  
5 MR. DEMERS: Same objection. 11:20:12  
6 MR. SANFILIPPO: Foundation. 11:20:14  
7 MR. DEMERS: You can answer. 11:20:15  
8 THE WITNESS: Can I just confer with 11:20:16  
9 counsel for a second? 11:20:18  
10 MR. DEMERS: Is -- do you have a question 11:20:19  
11 about attorney-client privilege -- 11:20:21  
12 THE WITNESS: Yeah, yeah. 11:20:23  
13 MR. DEMERS: -- information? 11:20:23  
14 THE WITNESS: Yeah. 11:20:23  
15 MR. DEMERS: Okay. Do you want to take a 11:20:24  
16 short recess? 11:20:26  
17 THE WITNESS: It'll take two seconds. 11:20:28  
18 THE VIDEOGRAPHER: Please stand by. We 11:20:29  
19 are going off the record. The time on the video 11:20:31  
20 monitor is 11:20 a.m. 11:20:33  
21 (Discussion off the record) 11:21:44  
22 THE VIDEOGRAPHER: We are back on the 11:22:06  
23 record. The time is 11:22 a.m. 11:22:18  
24 THE WITNESS: Thanks for that break. 11:22:21  
25 BY MR. O'BEIRNE: 11:22:23

1 Q And just to clarify, my recollection of 11:22:23  
2 the question was do you recall whether Mr. Donnelly 11:22:25  
3 was in favor of or opposed to the Quorum 11:22:27  
4 transaction. 11:22:30

5 MR. SANFILIPPO: Objection, form, 11:22:30  
6 foundation. 11:22:31

7 MR. DEMERS: Same objection. You can 11:22:32  
8 answer. 11:22:34

9 A Yes, I do recall. 11:22:34

10 Q And what do you recall about his position 11:22:35  
11 about the Quorum transaction? 11:22:37

12 A He was strongly against it. 11:22:39

13 Q Please explain what you recall about how 11:22:42  
14 he communicated that to members of the Advarra 11:22:45  
15 team. 11:22:49

16 MR. SANFILIPPO: Objection, foundation. 11:22:49

17 MR. DEMERS: You can answer. 11:22:51

18 A He would have -- he provided it, you 11:22:52  
19 know, like our typical management meetings about 11:22:59  
20 the opportunity presenting itself and the reasons 11:23:02  
21 -- his analysis of why that would not be prudent to 11:23:08  
22 move forward. 11:23:12

23 Q And any time after that did he ever come 11:23:13  
24 to you and say you guys were right, I was wrong 11:23:18  
25 about Quorum? 11:23:20

1                   MR. SANFILIPPO: Objection, form,                   11:23:22  
2 foundation.   11:23:23

3                   MR. DEMERS: Same objection. You can                   11:23:23  
4 answer.   11:23:24

5                   THE WITNESS: Not to my recollection.           11:23:25

6                   MR. O'BEIRNE: Could we get an exhibit           11:23:30  
7 sticker, Wendel Number 1? Let me hand you that                   11:23:32  
8 one.   11:23:45

9                   (Deposition Exhibit Number 1 was marked           11:23:45  
10 for identification.)   11:23:45

11 BY MR. SANFILIPPO:   11:23:45

12 Q        Mr. Wendel, I've just handed you a                   11:23:45  
13 document with Bates number at the bottom Donnelly.           11:24:12  
14 Do you see that?   11:24:16

15 A        Yes.   11:24:17

16 Q        Okay.   11:24:23

17 A        20474.   11:24:24

18 Q        So do you recognize this document?                   11:24:24

19 A        I've not seen this document before. It                   11:24:35  
20 looks like a relatively typical employment                           11:24:44  
21 agreement.   11:24:44

22 Q        If you turn to the -- well, look -- look                   11:24:46  
23 with me if you would at the top of Exhibit 1 states           11:24:49  
24 "Employment Agreement between Patrick K. Donnelly           11:24:53  
25 and Advarra, Inc." Do you see that?                           11:24:55

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1 A Yes. 11:24:57  
2 Q And I'll represent to you this is copy of 11:24:57  
3 a document that was produced to us by -- 11:24:59  
4 A Yeah, sure. 11:25:00  
5 Q -- by Mr. Donnelly in this case. 11:25:01  
6 MR. SANFILIPPO: Objection, 11:25:03  
7 argumentative. 11:25:03  
8 BY MR. O'BEIRNE: 11:25:05  
9 Q Okay. So if you turn to the last page of 11:25:05  
10 the contract before the exhibits, you see there 11:25:07  
11 there's a signature underneath the name Patrick 11:25:11  
12 Donnelly? 11:25:14  
13 A Correct. 11:25:15  
14 Q Okay, and on the page before that, you 11:25:16  
15 see there's a signature above Mr. Shah's name? 11:25:18  
16 A Correct. 11:25:21  
17 Q All right. If you would look with me, 11:25:23  
18 sir, at the bottom of the first page, it says 11:25:27  
19 "Duties." See that? 11:25:30  
20 A Yes. 11:25:31  
21 Q And section 3 says, "During the 11:25:32  
22 employment period, employee shall perform those 11:25:39  
23 services and duties that are consistent with his 11:25:42  
24 executive position and those duties that may be 11:25:43  
25 assigned to employee by or under the authority of 11:25:46

1 the board consistent with that position." You see 11:25:49  
2 that? 11:25:52  
3 A Yes, I do. 11:25:52  
4 Q "Consistent with such position." Sorry. 11:25:53  
5 I misread. In November 2017, you were on the board 11:25:56  
6 of Advarra? 11:26:01  
7 A Yes, sorry, sorry. 11:26:03  
8 Q And you were the president of the 11:26:09  
9 company. 11:26:10  
10 A Yes, I had just relinquished the CEO. 11:26:11  
11 Q And Mr. Donnelly took over you -- 11:26:16  
12 A Correct. 11:26:17  
13 Q -- for you as contemplated by this 11:26:18  
14 agreement. 11:26:20  
15 A Correct. 11:26:20  
16 Q You were also a substantial shareholder 11:26:21  
17 in Advarra at that time. 11:26:23  
18 A That's correct. 11:26:25  
19 Q The agreement goes on, "During the 11:26:26  
20 employment period, employee agrees to use 11:26:28  
21 employee's best efforts in the business of the 11:26:30  
22 company and its subsidiaries, and to devote 11:26:32  
23 employee's full time, skill, attention and energies 11:26:36  
24 to the business of the company and its 11:26:40  
25 subsidiaries." Do you see that? 11:26:42

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1 A Yes, I do. 11:26:43  
2 Q Was it your understanding as president of 11:26:44  
3 the company, a board member and a shareholder that 11:26:47  
4 Mr. Donnelly was agreeing when he became the CEO of 11:26:50  
5 Advarra -- 11:26:53  
6 MR. SANFILIPPO: Objection, form, 11:26:54  
7 foundation, calls for a legal conclusion. 11:26:55  
8 MR. O'BEIRNE: I wasn't remotely finished 11:26:57  
9 with the question. Can I finish? 11:26:59  
10 MR. SANFILIPPO: Sorry. 11:27:00  
11 BY MR. O'BEIRNE: 11:27:01  
12 Q So let me start again. Sir, was it your 11:27:02  
13 understanding as a shareholder in Advarra, as the 11:27:04  
14 president of the company and as a member of the 11:27:09  
15 board, that when Mr. Donnelly agreed to become the 11:27:11  
16 CEO of Advarra, he was committing to devoting his 11:27:14  
17 full time, skill, attention and energies to the 11:27:18  
18 business of Advarra and its subsidiaries? 11:27:21  
19 A Yes. 11:27:23  
20 MR. SANFILIPPO: Objection, form, 11:27:23  
21 foundation, calls for a legal conclusion. 11:27:25  
22 MR. DEMERS: Same objection. You can 11:27:28  
23 answer. 11:27:30  
24 THE WITNESS: Yes. 11:27:30  
25 MR. SANFILIPPO: Sir, I'd ask that you 11:27:30

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1 please give me a -- 11:27:36  
2 THE WITNESS: Yeah, sorry, sorry. 11:27:36  
3 MR. SANFILIPPO: -- time to get my 11:27:37  
4 objection --  
5 THE WITNESS: Sorry.  
6 MR. SANFILIPPO: -- before you answer the 11:27:37  
7 question. Thank you. 11:27:38  
8 THE WITNESS: Yeah, apologize for bad 11:27:38  
9 form.  
10 MR. SANFILIPPO: No, no, it's easy to get 11:27:42  
11 into a rhythm, so -- 11:27:43  
12 MR. O'BEIRNE: Are they speaking 11:27:45  
13 objections when you do them or just me? 11:27:46  
14 MR. SANFILIPPO: Well, I said form, 11:27:48  
15 foundation. I think foundation's different than 11:27:51  
16 form, and calls for a legal conclusion I don't 11:27:53  
17 think is a form objection, so I think we're all 11:27:55  
18 right there. 11:27:58  
19 MR. O'BEIRNE: Got it. 11:27:59  
20 THE WITNESS: I'm glad to go through that 11:27:59  
21 little section again if that's needed. 11:28:01  
22 BY MR. O'BEIRNE: 11:28:03  
23 Q We're fine. 11:28:04  
24 A Okay. 11:28:04  
25 Q So when you were the CEO of Advarra -- 11:28:05

1 strike that. When you were the CEO of Chesapeake, 11:28:07  
2 did you devote your full time, skill, attention and 11:28:11  
3 energy to that job? 11:28:14

4 A Yes, I did. 11:28:15

5 Q And I recall you testifying earlier that 11:28:16  
6 from your perspective, that was a full-time job? 11:28:19

7 MR. SANFILIPPO: Objection, form. 11:28:21

8 A Yes, that's correct. 11:28:22

9 Q Would -- in your mind, would it have been 11:28:23  
10 consistent with your obligations as the CEO of 11:28:26  
11 Chesapeake if you committed to devote more than 50 11:28:29  
12 percent of your working time to some other company? 11:28:32

13 MR. SANFILIPPO: Objection, form, 11:28:35  
14 foundation. 11:28:36

15 MR. DEMERS: You can answer. 11:28:37

16 A I'm sorry, could you repeat -- 11:28:38

17 Q Sure. 11:28:40

18 A I just missed -- 11:28:41

19 Q No, when you were the CEO of Chesapeake 11:28:42  
20 -- 11:28:44

21 A Right. 11:28:44

22 Q Would it have been consistent with your 11:28:45  
23 commitments to Chesapeake for you to have an 11:28:47  
24 agreement with some other company to devote more 11:28:50  
25 than 50 percent of your time to the other company, 11:28:52

1 not to Chesapeake? 11:28:54

2 MR. SANFILIPPO: Same objections. 11:28:55

3 MR. DEMERS: You can answer. 11:28:56

4 A That would not have been consistent with 11:28:56

5 the agreement that I signed as a CEO. 11:28:58

6 Q As a shareholder in Advarra, were you 11:29:03

7 expecting Mr. Donnelly to treat the CEO job as a 11:29:09

8 full-time job? 11:29:12

9 MR. SANFILIPPO: Objection, form. 11:29:13

10 MR. DEMERS: Same objection. You can 11:29:14

11 answer. 11:29:15

12 A Yes. 11:29:16

13 Q Was it clear to you that Linden was 11:29:16

14 expecting Mr. Donnelly to treat the CEO of Advarra 11:29:20

15 position as a full-time job? 11:29:24

16 MR. SANFILIPPO: Objection, form, 11:29:26

17 foundation. 11:29:27

18 MR. DEMERS: Same objection. You can 11:29:27

19 answer. 11:29:28

20 A I don't know it was explicitly stated 11:29:28

21 perhaps directly to me, but it was certainly 11:29:33

22 implicit in the -- in being assigned the CEO. 11:29:36

23 Q I'd like to ask you a few questions about 11:29:40

24 the Bearcat transaction that was the sale of the 11:29:51

25 Advarra to Genstar. 11:29:56

1	A	Correct.	11:29:59
2	Q	Do you recall a time where you became	11:29:59
3		concerned that Mr. Donnelly was acting in a way	11:30:01
4		counterproductive to the sale?	11:30:04
5		MR. SANFILIPPO: Objection, form.	11:30:06
6		MR. DEMERS: Same objection. You can	11:30:07
7		answer.	11:30:08
8	A	Am I aware of a time when Mr. Donnelly	11:30:09
9		was acting in a manner counterproductive to a sale?	11:30:29
10	Q	Let me rephrase the question.	11:30:33
11	A	Okay. Sorry.	11:30:35
12	Q	Advarra was eventually sold to Genstar,	11:30:43
13		correct?	11:30:45
14	A	Correct.	11:30:45
15		MR. SANFILIPPO: Objection, form.	11:30:46
16	BY MR. O'BEIRNE:		11:30:47
17	Q	Do you recall Mr. Donnelly making	11:30:47
18		statements in connection with the prospect that	11:30:51
19		Genstar would acquire Advarra that you thought were	11:30:56
20		counterproductive to the sale of Advarra to	11:30:59
21		Genstar?	11:31:02
22		MR. SANFILIPPO: Objection, form.	11:31:02
23		MR. DEMERS: Same objection. You can	11:31:03
24		answer.	11:31:04
25	A	I was aware of Mr. Donnelly making	11:31:04

1 comments that were not wholly supportive of a 11:31:09  
2 Genstar acquisition. 11:31:14  
3 Q What do you recall those comments to be? 11:31:15  
4 MR. SANFILIPPO: Objection, form. 11:31:20  
5 MR. DEMERS: You can answer. 11:31:23  
6 MR. SANFILIPPO: And foundation. 11:31:24  
7 MR. DEMERS: You can answer. 11:31:26  
8 THE WITNESS: That was clearly not the 11:31:27  
9 candidate that he preferred. He shared with us 11:31:31  
10 some -- a previous situation where he was a 11:31:36  
11 portfolio company CEO under Genstar. That's 11:31:41  
12 probably, you know, the general answer. 11:31:52  
13 BY MR. O'BEIRNE: 11:31:53  
14 Q Did you get the sense that his lack of a 11:31:53  
15 preference for Genstar was based on his view of 11:31:55  
16 what would be best for Advarra or his personal 11:31:59  
17 history with Genstar? 11:32:02  
18 MR. SANFILIPPO: Objection, form, 11:32:03  
19 foundation. 11:32:04  
20 MR. DEMERS: Same objection. You can 11:32:04  
21 answer. 11:32:05  
22 A I think the nonpreference for Genstar was 11:32:05  
23 a very significant component of his lack of 11:32:22  
24 enthusiasm for the transaction going with Genstar. 11:32:30  
25 Q And so I want to make sure I understand 11:32:34

1 your question. I'm just trying to get at did you 11:32:38  
2 think he was not enthusiastic about the transaction 11:32:40  
3 going to Genstar because he thought the transaction 11:32:44  
4 going to Genstar would be less favorable for the 11:32:46  
5 Advarra shareholders, or because he had personal 11:32:49  
6 history with Genstar? 11:32:51

7 MR. SANFILIPPO: Objection, form, 11:32:53  
8 foundation. 11:32:54

9 MR. DEMERS: Same objection. You can 11:32:54  
10 answer. 11:32:55

11 THE WITNESS: I would have no reason to 11:32:55  
12 suspect that anyone would have concluded that going 11:33:01  
13 with Genstar would have been adverse to Advarra's 11:33:05  
14 shareholders. I do believe that Mr. Donnelly had 11:33:09  
15 strong and stated aversion to going with Genstar. 11:33:16

16 MR. O'BEIRNE: I don't have any more 11:33:42  
17 questions for the witness. 11:33:43

18 MR. SANFILIPPO: I have no further 11:33:46  
19 questions for the witness. Thank you, sir. 11:34:05

20 THE WITNESS: Thanks.

21 MR. SANFILIPPO: Appreciate your time. 11:34:09

22 THE VIDEOGRAPHER: Please stand by. Here 11:34:09  
23 marks the end of the videotaped deposition of Jeff 11:34:17  
24 Wendel. We are off the record at 11:34 a.m. 11:34:21

25 (Off the record at 11:34 a.m.)

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Karen Young, the officer before whom  
3 the foregoing deposition was taken, do hereby  
4 certify that the foregoing transcript is a true and  
5 correct record of the testimony given; that said  
6 testimony was taken by me stenographically and  
7 thereafter reduced to typewriting under my  
8 direction; that reading and signing was not  
9 requested, and that I am neither counsel for or  
10 related to, nor employed by any of the parties to  
11 this case and have no interest, financial or  
12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set  
14 my hand and affixed my notarial seal this 10th day  
15 of October, 2021.

16   
17 \_\_\_\_\_

18 NOTARY PUBLIC IN AND FOR  
19 THE DISTRICT OF COLUMBIA

21 My commission expires:

22 July 31, 2024

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